The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. MCCLINTOCK).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC, January 25, 2011,

I hereby appoint the Honorable Tom MCCLINTOCK to act as Speaker pro tempore on this day.

JOHN A. BOEHNER,
Speaker of the House of Representatives.

MORNING-HOUR DEBATE

The SPEAKER pro tempore. Pursuant to the order of the House of January 5, 2011, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning-hour debate.

The Chair will alternate recognition between the parties, with each party limited to 1 hour and each Member other than the majority and minority leaders and the minority whip limited to 5 minutes each, but in no event shall debate continue beyond 11:50 a.m.

TIME TO REDUCE SPENDING TO THE 2008 LEVELS

The SPEAKER pro tempore. The Chair recognizes the gentleman from South Carolina (Mr. WILSON) for 1 minute.

Mr. WILSON of South Carolina. Mr. Speaker, this week the House will consider House Resolution 38, which promotes a reduction of current spending to the 2008 levels or less for the remainder of the fiscal year. This legislation seeks to cure the illness in Washington known as runaway spending.

For the past 4 years, liberals in Washington have been on a spending spree that has not only resulted in a loss of jobs, but also historic deficits. This job-destroying agenda is not sound policy for Americans today, and it burdens future generations of Americans with crushing debt.

Last week the House took steps to repeal and replace the job-killing government takeover of health care. The NFIB, the National Federation of Independent Business, the largest organization in the United States of small businesses, reports that that will put 1.6 million jobs at risk. Now we must focus our attention on limiting spending levels.

Currently, our national deficit stands at $14 trillion. Saddling future generations with crushing debt.

For that and so many other reasons, Bill was a role model to me and the rest of our delegation. He was a humble giant in Connecticut politics, well liked and respected by all, and he will be deeply missed by all those fortunate enough to have known him.

When I came to represent much of the Naugatuck Valley in 2000, Bill personally took me town by town. He knew everyone and everyone knew him. There was a mutual respect and fondness there that I have always tried to live up to ever since. Bill just had that effect on people. He was funny, kind, and down to Earth. As a humble son of a hat factory worker and a teacher, he never forgot where he came from. He understood his constituents' needs and concerns because their concerns were his. He walked in their shoes.

During 12 years in the State house, four as speaker, and three terms in the Congress, Bill focused on the needs of children and seniors, on improving public education, helping nontraditional and mid-career students go to college, and ensuring that all seniors could enjoy retirement with the health and dignity they deserve.

More than anything, Bill tried to make a difference in everything he did. In doing so, he left an indelible mark on our State and this institution. I extend my deepest sympathies to his wife, Barbara, and their three children, Shaun, Scott, and Brian, and his grandchildren. He was an extraordinary individual, and he leaves a legacy to which we should all aspire.

I yield to the gentleman from Connecticut (Mr. COURTNEY).

Mr. COURTNEY. Thank you, Congresswoman DELAURO.

Mr. Speaker, I just want to associate my remarks with Congresswoman DELAURO’s eloquence. Bill Ratchford was a giant in Connecticut politics. He
served as Speaker of the House in the State legislature. As a former State legislator myself, I saw firsthand the legacy that he left behind in terms of a civil but progressive agenda that he advanced in the State of Connecticut, which, as a member of Connecticut's General Assembly for three terms, he continued that work, again, particularly focusing on the emerging issues of the aging in our country, which as a demographic is growing. He was really just someone with a great vision in terms of the need to make sure that we had a society that was prepared to deal with those issues.

Mr. Speaker, as we grapple with the challenge of civil discourse in our democracy, Bill Ratchford, in my opinion, is the perfect, almost iconic example of what a legislator and a public servant ought to be. He cared deeply about the issues that he campaigned and advocated for, but he also was someone who not only respected his opposition and believed passionately in civil discourse and debate. Again, I think that legacy, probably above all, is the most powerful one that he leaves behind us; and, frankly, we would all do well to follow his outstanding example.

Mr. MURPHY of Connecticut. Mr. Speaker, I rise, as did other Members of the Connecticut delegation, to pay tribute to a great man who served the State of Connecticut and his community of Danbury in a variety of ways, Bill Ratchford.

Bill Ratchford passed away recently, and the entire State of Connecticut is mourning; but, in particular, my district is mourning. Though Connecticut's districts have been reconfigured over the years, we both share a love and affinity for Ratchford's hometown of Danbury that he represented in the United States Congress and I have the great fortune of representing.

Bill grew up in Danbury. He was a child of the Depression. His father worked in one of the great hat factories in Danbury, Connecticut. His mother was a school teacher. And they instilled in Bill the value of what truly matters in life: a good education, a love for his family, and a love for his country.

Shortly after I was sworn into office, Bill came to see me, to share with me some of his thoughts about what was important about being in this place.

TIME FOR FISCAL RESPONSIBILITY

The SPEAKER pro tempore. The Chair recognizes the gentleman from Georgia (Mr. GRAVES) for 2 minutes.

Mr. GRAVES of Georgia. Mr. Speaker, early reports indicate that President Obama will call for a new spending package during his State of the Union address tonight. Now, I have heard, as many of you have, that this might be masked, as he might say tonight, as targeted investments. More stimulus. Democrats speak for stimulus, but it will be hidden with calls for tepid spending cuts.

Well, Mr. Speaker, Americans know that our debt is $14 trillion. They know that the President spent $1.3 trillion over the budget last year, only to see unemployment stay above 9 percent. Now is the time to pivot to fiscal responsibility. It’s time to shed the President’s maxed-out credit cards and cut his weekly allowance. It’s time to tell our kids and grandkids that we don’t want them to bear the burden of our generation’s fiscal irresponsibility.

Mr. Speaker, I, along with my constituents in north Georgia, hope that the early reports are wrong about another stimulus being proposed tonight. Rather than use a few spending cuts as window dressing for more spending, tonight is the President’s opportunity to seize the moment to be a leader, and get serious about spending reform.

TRIBUTE TO FORMER CONGRESSMAN WILLIAM RATCHFORD

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Though he cared so passionately about issues, as Representative COUTNEY and Representative DELAURO mentioned, his passion especially for issues aging, the fact that he became, later on, the State’s first commissioner on aging, what he cared most about was the discourse in this place. Bill was a gentleman first, second, and third. He represented everything that people wanted government to be.

That’s what we talked about when he came into my office that day, how you needed to fight for what you cared about in this place but do it in a respectful way. And I join with Representative COUTNEY in reminding everyone here that there are certain giants of this place that we can look to in trying to reorder the way in which we have conversations, and Bill Ratchford certainly was at the top of that list.

His commitment to public service built a legacy that in Danbury and throughout Connecticut we will remember for a long time. He will be terribly missed. My thoughts and prayers and those of everyone in the Danbury area are with Barbara and his family at this time.

I yield to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. I thank Congressman Murphy for his remarks and to join him in the remarks that he has made.

I had the opportunity to attend a memorial service and speak at a memorial service for my friend, Bill Ratchford.

Bill and I first met in the early 1970s. Bill had been speaking of the Connecticut House of Representatives. I was seeing as the president of the National Conference of State Legislatures. I was about to be president of the Maryland Senate, and

another former Member, Martin Sabo, was the speaker of the Minnesota House. The three of us became very good friends.

Later in the week, the next week, we lost an extraordinary American, Sarge Shriver. I had the opportunity to speak at his wake last Friday night.

The reason I mentioned Sarge Shriver, Bill Ratchford and Sarge Shriver were both extraordinary public servants who were believed by others was their most important role in life in terms of their public service. Now, privately, they were both also representatives of extraordinary family leaders, revered by their families. And his sons, Bill Ratchford’s sons, and Sarge’s sons spoke at their memorial services. Shaun, Scott, and Brian spoke movingly of a father who was fully engaged and adored by his sons. Of course his wife, Barbara, a very close friend of mine for some 40 years, as was Bill, was present as a mother.

So these two families, two extraordinary leaders that we have lost recently, represented the best in America.

Bill Ratchford was my friend. Bill Ratchford brought honor on this institution by his service. Bill and I had the opportunity to serve on the Appropriations Committee together, which was probably, at that point in time, the most bipartisan committee in the Congress of the United States. I am not sure that’s still true, but it certainly was then. Bill Ratchford was respected on both sides of the aisle for his dedication his intellect, and his commitment to making America a better country.

I am pleased to join my friend CHRIS MURPHY, who has been such a giant himself at a young age, but at an age when Bill Ratchford was becoming a major leader in their country.

I thank Bill Ratchford and his family for what they have contributed to this country. We lament his loss, but we celebrate his life, which was an extraordinary life well lived and a blessing to all who knew him and to his country.

STATE OF OUR UNION

The SPEAKER pro tempore. The Chair recognizes the gentlewoman from Minnesota (Mrs. BACHMANN) for 2 minutes.

Mrs. BACHMANN. Mr. Speaker, I appreciate the opportunity to speak today.

This evening, we will hear from the President of the United States in his State of the Union address, and it is a privilege for the people of our country once again to hear from our President what his remarks are about the State of our Union.

We look forward to hearing, Mr. Speaker, what the President’s plan will be. Mr. Speaker, I had the opportunity out of the high unemployment rates that we have been dealing with during these last 20 months. To have the unemployment rate in excess of 9 percent
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and, in some cases, over 10 percent has been unacceptable. It’s been a hardship for so many people in the Nation.

Also, I am looking forward to finding out what the President’s pro-job growth agenda will be going forward. We want to get unemployment rates back to much lower levels so that families and businesses can thrive again.

Also, Mr. Speaker, I am looking forward to finding out what the President will be proposing. We haven’t heard specific cuts so far. In fact, we have heard that the President may be referring to investments, meaning more spending yet again, spending that this country simply cannot afford because, as we know, Mr. Speaker, we are falling off the cliff in terms of debt increases. That is not good for the next generation of Americans.

Second, I am wondering what specific pieces of legislation that the President has proposed would he be willing to repeal. We know, for instance, that the cap-and-trade proposal that’s working through the EPA will be one that will be a job killer. We know that for the health care law as well, that it is, in fact, a job killer.

Finally, I am wondering, Mr. Speaker, what areas of regulations the President would be willing to do away with. The President had made a statement last week that he wants to direct all of the agencies to look for regulations that would be lifted. What we know is that the EPA regulations will, in fact, do that, and we are wondering if, perhaps, the President would be willing to put those on the table and delay implementation of the cap-and-trade system through the EPA.

Finally, Mr. Speaker, we also know that with Americans paying in excess of $3 a gallon for gasoline that it may be wise now to look at American energy production. What would those proposals be from the President? We look forward to hearing that this evening.

MAKE SERIOUS INVESTMENTS IN THIS COUNTRY’S FUTURE

The SPEAKER pro tempore. The Chair recognizes the gentleman from Kentucky (Mr. YARMUTH) for 5 minutes.

Mr. YARMUTH. Mr. Speaker, tonight the President of the United States will deliver the State of the Union address, as we all know. If the reports are accurate, what he will talk about today is the need to make serious investments in this country’s future.

Now, we have just heard from a colleague from the other side of this aisle, and we have heard from many Republicans over the last few days, concerning the issue of spending and whether or not we need to be spending any more money in this time of admittedly dire financial circumstances.

You know, most families, when they borrow money, they do it for two reasons: either for survival—they need to eat; they need to feed their children; they may need a house for their family; they need to clothe them—or they borrow because they see an opportunity to invest and to make their lives better down the road.

Now, I know that many people don’t think of government spending as an investment. But if we look back not too long, just over recent history, the last few decades, we have seen numerous instances in which government investment has not only created jobs, it has spawned entirely new industries.

As a matter of fact, even though people made fun of Al Gore many years ago, the fact is that government investment actually created the Internet. Government investment through the Defense Department and other research institutions, has created literally billions and billions of dollars in private sector growth and created thousands and thousands and thousands of new jobs.

We face a very difficult choice right now. We can sit back while the rest of the world advances, or we can make the tough choices right now to make serious and important investments that will not just create new industries but may, in fact, solve some of our most intractable problems. I am talking here about medical research, for one.

We now invest $6 billion a year in cancer research. Cancer treatment and the cost to society because of cancer amounts to literally hundreds of billions of dollars each year. It costs Medicare. It costs Medicaid. It costs the private system. If we spent $20 billion a year on medical research for cancer and over 10 years finally cured it, made it manageable in an inexpensive way, the long-term payback to this country would be enormous.

One of the reasons with analyzing our health care reform proposal, now in the law the Affordable Health Care Act, is that we weren’t able to factor in the long-term benefits of preventive care, research, more efficient operations, because they are not quantifiable.

But we know that if we could just deal with two major diseases, diabetes and cancer, then we would probably solve our long-term health care financial issues. So tonight the President will lay out choices for us. And I think that this is one of the most important aspects in our public dialogue right now. We need to make sure that not only the American people, but also every Member of Congress, really understand what our choices are. Because it’s very, very easy to stand up and say we’re going to cut spending here, but in the Federal Government when you’re not willing to talk about what specifically you’re willing to cut. And my colleague from Minnesota just said the President may not be specific. Well, the fact is, Republicans haven’t been specific either.

We need this laid out for the American people. We need it laid out for us. We have difficult choices. We need to make them. I think the President is on the right track. We cannot cut back right now on medical research. We cannot cut back on the type of research that will create new industries, particularly in the energy field. We cannot cut back on the right now when the rest of the world is passing us by in terms of the achievement of their students. And we cannot cut back right now on investments in our infrastructure when much of it is crumbling around us.

So I look forward to the debate we’re going to have over the next few months. It’s an important debate. It’s probably the most serious debate we’ve had in this country in decades, because we are at a crossroads. We can allow this country to become a secondary international power, or we can maintain our status as not just the world’s largest economy, but the world’s most ingenious economy, the world’s most innovative society which cares about making life better for every American citizen.

CLEAN-ENERGY JOB CREATION

The SPEAKER pro tempore. The Chair recognizes the gentleman from Washington (Mr. INSLEE) for 5 minutes.

Mr. INSLEE. Mr. Speaker, I came to the floor this morning to talk about our excitement hearing the President express that feeling of optimism, confidence and can-do spirit that has always epitomized America, and that is in the field of the development of our clean-energy job creation program.

I’m excited about it because, as we’re coming out of this very deep recession, many of us believe that one of the brightest spots on our economic horizon is our ability to develop hundreds of thousands of new jobs in this country that America will always be a leader in, that America can fulfill its destiny of leading the world in clean-energy development.

We believe it is our destiny to do that because we have always done that throughout America’s history, leading the world in aeronautics, leading the world in software, leading the world in aerospace; and now we have a great opportunity to lead the world in the development of clean energy. And when we do that, we do believe that we will create not just hundreds, thousands of new jobs. And I look forward to the President’s ideas on how to do that.

But I want to talk about where we are right now in our ability to do that. I remember I came to the floor 2 or 3 years ago and talked about the prospects of creating jobs in America in the creation of an electrified transportation system and our ability to electric our cars. And when I did that, I remember I was criticized by some in this Chamber thinking, well, that was some pipe dream stuff that really wouldn’t allow us to create jobs in this field.
Well, I want to bring us back up to where we are now this year to see what progress we've made. I want to mention three pieces of progress we have made that are going to, I think, be examples A, B and C of why the President's message of clean energy will be receivable this year.

Number one, this year is the General Motors Volt. It is a plug-in hybrid electric car, a car that you can plug in and go 40 miles all on electricity; and then if you want to go more than 40 miles, it has a four-station engine that will generate electricity to charge the battery that will run the wheels of the General Motors Volt.

And when I asked General Motors to bring the Volt to Capitol Hill a few years ago, people thought, interesting idea, will never work. Well, guess what. The General Motors Volt this year was elected to the protection of the vulnerable.

We have the domestic manufacturer, the Ford Focus, that we think is going to follow. Tesla is being manufactured here. We hope to see Toyota and Nissan products here as well. These are the cars not of the future but of today. And we can lead the world in the manufacture if we do some of the things that the President will talk about tonight to electrify our auto transportation fleet.

Second, I want to talk about one of the most exciting events I've ever had as a U.S. Congressman, and that is last October I went to the Wooden Cross Lutheran Church in Woodinville, Washington. And I got to participate with that congregation in dedicating the very first electric charging station in America in a church parking lot. And I thought, this is a great thing for America that we are electrifying our transportation fleet.

And we dedicated this charging station. It's about 3 1/2, 4 feet tall. And you place to plug in their electric cars.

And I got to participate with the Lutheran Church in Woodinville, Washington. And I got to participate with that congregation in dedicating the very first electric charging station in America that we are putting hundreds of formerly laid-off auto workers to work in Hol-land, Michigan, making lithium ion batteries to run our electric cars. And that is happening because of what we did.

Let's grow these clean-energy jobs. I look forward to the President's speech tonight.

A MORE PERFECT UNION

The SPEAKER pro tempore.

The Chair recognizes the gentleman from Texas (Ms. Jackson Lee) for 5 minutes.

Ms. JACKSON LEE of Texas. Mr. Speaker, as I was walking through the hallway, I encountered an individual who was enchanted about the President's State of the Union. They happened to be a new employee of this House. This would be the very first time that they would have this privilege and this honor. I think it is important for us to recognize that it is a privilege and honor: In essence it is a responsibility of this administration, of this President, to follow in the tradition in the law of the land that the President presents to the Congress, to the people of this great country, the State of the Union.

Frankly, I'm an optimist. I am so grateful that we live in a country that has a Constitution that has prevailed for so many years, that we have language in our Constitution that says that we have organized to create a more perfect Union, that the words of the Declaration of Independence are pressed upon our hearts: We hold these truths to be self-evident, that we all are created equal with certain unalienable rights of life, liberty and pursuit of happiness.

That's what I expect to hear from our President tonight, a man of passion and commitment and dedication, a man who has sacrificed his own personal prestige and popularity in order to make very difficult decisions.

The American Recovery Act, for example, went into the nooks and crannies of this Nation and built up small communities like police officers, provided more patient rooms, gave more resources to local hospitals and research institutions to make this country great and created jobs. And if you look at a grid that shows the job creation of the last administration, you will see that it is predominantly all red, jobs lost. But as we have struggled to build and climb, we aren't going in the right direction.

And so I would ask the President to stand his ground on investment in America and infrastructure in America. And I would say to this body that we must stand committed and dedicated to the protection of the vulner-able. Does that mean increasing the deficit? No. I happen to have had the privilege of working on a balanced budget. It's exciting. We passed a balanced budget, and out of that we created the Children's Health Insurance Program and 22 million jobs in the last Democratic administration.

We can do that now. We can create jobs, and I would encourage the President to focus on the infrastructure. Why? Let me give you an example.

The city of Houston, now the third largest city in the United States based upon the census data that will be finalized in the month of February, we are in line after 30 years to create a world-class mobility system. We have been granted a billion dollars over a number of years, not wasting money because Texas happens to send more to the United States' tax coffers than we get back, but we will be creating 50,000 jobs by investing in a light rail system to move people forward, to eliminate the emissions crisis that we have, and to put people to work.

The crisis is that we are now in with not having passed the appropriations of the 111th Congress, which I secured some $150 million for us to start, stymied all of these need-to-build projects on bridges and freeways, on dams that need to be repaired. All of that creates the genius of America or boosts the genius of America and let's use our work.

So, Mr. President, stand your ground on making sure that we move forward on infrastructure so that we can make it in America, meaning that Americans can make it, they can survive, they can improve their quality of life, and we can make it in America.

I want us to build the light railcars. Bring it on home. Let us build turbines that are part of wind energy. Let us build the solar panels. And, yes, let us build our buses and trains. Stand your ground, Mr. President.

And then for the most vulnerable of America, let's put it on the line that we are not going to touch Social Security. I know the panic that goes through senior citizens, the disabled, veterans who are dependent not only on the veterans' compensation but they are dependent on Social Security. Let's draw the line. And, too, the young people of America very clear, you are not carrying the senior citizens. We are not taking out of your future. Remember the words of President Kennedy who said: Ask not what your country can do for you, but what you can do for your country. Social Security is an investment of those who have worked and those who are disabled.

And so, Mr. President, stand your ground tonight in this most privileged opportunity to speak to the American people. We are all sitting with each other. So let us stand our ground for the future of America.
January 25, 2011

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until noon today.

Accordingly (at 10 o'clock and 33 minutes a.m.), the House stood in recess until noon.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at noon.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

"Open the door. Heighten the security. Gather the people. Proclaim a fast. Through the medium of television, enter in, and ready yourself to listen, America."

Lord God, today this House Chamber and its Members prepare this place and this Nation to welcome President Barack Obama tonight to listen to his State of the Union.

Guide and protect him, Lord. Grant him health, wisdom, prudence, and forbearance.

Help all Americans, Lord, for "we the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty" do assemble and ready ourselves to hear the President's message and act according to the Constitution that holds us together as a new order both now and for ages to come.

Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Texas (Mr. Poe) come forward and lead the House in the Pledge of Allegiance.

Mr. POE of Texas 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.

ELECTING MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE OF REPRESENTATIVES

Mr. ALTMIERE. Mr. Speaker, by direction of the Democratic Caucus, I offer a privileged resolution and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 32
Resolved, That the following named Members be and are hereby elected to the following standing committees of the House of Representatives:

(1) COMMITTEE ON THE BUDGET.—Ms. Schwartz, Ms. Kaptur, Mr. Doggett, Mr. Blumenauer, Ms. McCollum, Mr. Yamamoto, Mr. Pascrell, Mr. Honda, Mr. Ryan of Ohio, Ms. Wasserman Schultz, Ms. Moore, Ms. Castor of Florida, Mr. Shuler, Mr. Tonko, and Ms. Bass of California.

(2) COMMITTEE ON FOREIGN AFFAIRS.—Ms. Schwartz, to rank immediately after Mr. Higgins.

(3) COMMITTEE ON HOUSE ADMINISTRATION.—Ms. Lofgren of California and Mr. Gonzalez.

(4) COMMITTEE ON VETERANS' AFFAIRS.—Ms. Linda T. Sánchez of California, to rank immediately after Mr. Michaud.

Mr. ALTMIERE (during the reading). Ms. Wasserman Schultz, Ms. Moore, Ms. Cas- tor of Florida, Mr. Shuler, Mr. Tonko, and Ms. Bass of California.

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will entertain 15 1-minute speeches on each side of the aisle.

FOREIGN AID TO CHINA—ABSURDITY

Mr. Poe of Texas. Mr. Speaker, the government is going broke. Government spends too much. It taxes too much. One idea is to raise the government credit card limit. It's like when my four kids went off to college. When they reached the maximum on their credit cards, the credit card company would simply raise their limit. Thus, they could spend more money by borrowing money. However, they all found out how difficult it was to get out of debt until they quit spending money.

Instead of more U.S. debt, why not cut spending? Start with foreign aid. There are 194 countries in the world, and the United States gives to over 150 of them.

Did you know we give money to dictator Chavez of Venezuela, the tyrant of South America? Did you know we give money to Russia—and the zinger of all—did you know we give money to China? Yes, the country that owns most of our debt gets foreign aid.

This absurdity must cease. No more foreign aid to the likes of Venezuela, Russia or China.

And that's just the way it is.

GIVE THE AMERICAN PEOPLE A NEW DIRECTION

Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.

Mr. PENCE. Mr. Speaker, tonight the President of the United States will appear in this Chamber, as nearly every President has for more than 150 years, and I want to think outside the box and create a better future for our children and our country.

As we prepare for the President's address tonight, I ask my friends on the other side of the aisle: Are you ready to work with us to move forward?

BIPARTISANSHIP AND JOBS

Mr. BACA asked and was given permission to address the House for 1 minute.

Mr. BACA. Mr. Speaker, at tonight's State of the Union Address, it is vitally important that President Obama lays out an effective strategy for new job creation.

The economy is improving, and with more than 1 million private sector jobs created in the last year, more people are going back to work; but far too many Americans still find themselves without jobs, especially in my district in the Inland Empire, where unemployment is 15 percent.

At this time of enormous challenges, we must all recognize that the problems we face cannot be solved by a Democrat or a Republican solution alone. Only—and I state only—by working together and finding common ground will we overcome the obstacles in front of us.

I stand ready to work with all of my colleagues, Republicans and the tea party included, to think outside the box and create a better future for our children and our country.

Mr. Speaker, at tonight's State of the Union Address, it is vitally important that President Obama lays out an effective strategy for new job creation.

The economy is improving, and with more than 1 million private sector jobs created in the last year, more people are going back to work; but far too many Americans still find themselves without jobs, especially in my district in the Inland Empire, where unemployment is 15 percent.

At this time of enormous challenges, we must all recognize that the problems we face cannot be solved by a Democrat or a Republican solution alone. Only—and I state only—by working together and finding common ground will we overcome the obstacles in front of us.

I stand ready to work with all of my colleagues, Republicans and the tea party included, to think outside the box and create a better future for our children and our country.

As we prepare for the President's address tonight, I ask my friends on the other side of the aisle: Are you ready to work with us to move forward?
ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. Poe of Texas). Members are advised to direct their comments to the Chair.

BUDGETLESS RESOLUTION

(Mr. CICILLINE asked and was given permission to address the House for 1 minute.)

Mr. CICILLINE. Mr. Speaker, I rise today with serious concerns about the misguided agenda our friends on the other side of the aisle are pursuing.

While Democrats continue to make job creation, economic recovery, and debt reduction top priorities, the majority continues to engage in political theater. In fact, their first actions after assuming control of the House haven’t created a single job or protected a single American business.

Instead, the other side’s top priority has been to repeal the patient protections provided by the new health care reform bill; and their so-called ‘budget resolution’ they have offered today is a one-page document with no specific cuts to reduce spending, no budget numbers and, most importantly, no ideas on job creation or on economic recovery.

Mr. Speaker, we were sent here to create jobs and get the American economy back on track, both the Republicans and Democrats. Let’s stop the misguided agenda our friends on the other side of the aisle are pursuing.

DEFICIT REDUCTION PLANS—NOT AMBIGUOUS GOALS

(Mr. ALTMIRe asked and was given permission to address the House for 1 minute.)

Mr. ALTMIRe. Mr. Speaker, as we look forward to tonight’s State of the Union Address, it is important for all of us to keep in mind the most important issues to the American people: jobs, the economy, and deficit reduction. In the weeks and months ahead, we look forward to working together, Democrats and Republicans, to focus our legislative attention on these issues.

As we debate these issues, it is easy to simply identify the problem. We all know that unemployment is too high, that recovery is not as fast as we would like, and that the deficit is out of control; but the time for simply defining the problem has long since passed, and realistic solutions are long overdue. As we near completion of our first month of the new Congress, the American people are still waiting to hear the majority’s specific recommendations on how to address these issues.

Tonight, we will hear from the President. I look forward to soon hearing from the majority some specific details about their deficit reduction plans, not just ambiguous goals.

HONORING FALLEN OFFICERS IN ST. PETERSBURG, FLORIDA

(Ms. CASTOR of Florida asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. CASTOR. Mr. Speaker, I rise today to honor the sacrifice of two St. Petersburg, Florida, police officers who were killed in the line of duty yesterday.

Sergeant Tom Baitinger and Officer Jeffrey Yaslowitz were following up on a Fugitive Task Force warrant when they and a deputy U.S. marshal were ambushed and shot. Officer Yaslowitz was fatally shot while trying to arrest the dangerous fugitive; Officer Baitinger was shot while attempting to rescue his colleagues.

Officer Yaslowitz was 39 years old. He was a K-9 officer and had worked with his canine partner, ‘Ace,’ for the last 2 years. He is survived by his wife, Lor- raina, and three young children. Ser- geant Thomas J. Baitinger was 48 years old. He is survived by his wife, Paige.

As my colleague, Congressman Bill Young, stated yesterday from this floor, we pray for their families, the St. Petersburg Police Department, Mayor Bill Foster, and Police Chief Chuck Harmon, and we honor the sacrifice of our community heroes and all who wear the uniform of service.

TONIGHT’S OFF-BROADWAY PERFORMANCE

(Mr. McDermott asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDermott. Madam Speaker, I want to give folks a preview of tonight’s off-broadway performance that will follow the President’s State of the Union Address.

The stage will be the House Budget Committee hearing room. The actor in the one-man show will be Republican Representative Paul Ryan from Wisconsin. The script will begin with something like, Hello, I’m Representative Paul Ryan, and I’m speaking to you from the very location where the Democratic job-killing spending binge unfolded during the last 2 years. Unfortunately, the script for tonight’s performance will not include the fact that Democratic investments have created more jobs during the last 2 years than were created during the entire 8 years of George Bush. You also won’t hear about the one thing that Republicans fought tooth and nail for during the last 2 years: an extension of a budget-busting $700 billion tax break for wealthy Americans.

Coming attractions? The chairman will have another show in the next week where he pulls a budget number from a hat filled with rabbits. That will be our budget number. Enjoy the show.

CALLING FOR TRANSPARENCY IN CAMPAIGN FINANCE

(Mr. McNerney asked and was given permission to address the House for 1 minute.)

Mr. McNerney. Madam Speaker, I rise to discuss the importance of reducing the influence of corporate special interest money in our elections.

As a result of the Citizens United decision, corporations and other special interests are free to pump unlimited sums of money into campaign attacks. And worse yet, because of this decision there is no good mechanism to keep money from foreigners out of our elections. We need reform that brings transparency to the campaign finance system and protects the best interests of middle class families.

I will call on the new majority to work in a bipartisan fashion to bring transparency to the campaign finance system. I supported the DISCLOSE Act last year, and I believe this bill is a good first step. I will continue standing up for middle class families.

USING AMERICAN RESOURCES TO CREATE JOBS

(Mr. Murphy of Pennsylvania asked and was given permission to address the House for 1 minute.)

Mr. Murphy. Madam Speaker, tonight we will hear about the State of the Union. I hope we hear the sometimes painful truth about the State of the Union: more jobs lost in the last couple of years and we need to do something about that.

But the answer is not more spending that leads us to a greater deficit and more borrowing from China. The answer is not to continue to have higher gas prices because we are buying our oil from OPEC, which they use to build their lavish palaces and drive their Rolls Royces while our communities are trying to find ways to afford the patching compound to patch up our potholes. What we need to be doing is taking action that uses our resources to create American jobs.

A bill that I am going to be reintroducing from last year is one that says, Let’s stop this moratorium that prevents us from using our oil, from drilling our resources. We can actually create jobs and have about $3 trillion-plus in Federal revenue without raising taxes, without raising our trade deficit, and without sending more money to OPEC.

I hope this is something this Congress considers and this President has an open mind to doing so that we can create jobs without creating more deficit.

STANDING TOGETHER FOR THE ECONOMY

(Mr. Himes asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)
That the Senate agreed to without amendment H. Con. Res. 10. With best wishes, I am
Sincerely,
KAREN L. HAAS,
ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE
The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote incurs objection under clause 6 of rule XX.
Record votes on postponed questions will be taken later today.
STAFF SERGEANT SALVATORE A. GIUNTA MEDAL OF HONOR FLAG RESOLUTION
Mr. LATHAM. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 49) providing Capitol-flown flags for recipients of the Medal of Honor. The Clerk read the title of the resolution.
The text of the resolution is as follows:
H. Res. 49
Resolved.
SEC. 1. SHORT TITLE. This resolution may be cited as the “Staff Sergeant Salvatore A. Giunta Medal of Honor Flag Resolution.”
SEC. 2. PROVIDING CAPITOL-FLOWN FLAGS FOR RECIPIENTS OF MEDAL OF HONOR.
(a) IN GENERAL.—At the request of a recipient of the Medal of Honor or an immediate family member of a recipient of the Medal of Honor, the Representative of the recipient or the Representative of the family member (as the case may be) may provide the recipient or the family member with a Capitol-flown flag, together with the certificate described in subsection (c), except that not more than one flag may be provided under this resolution with respect to the Medal of Honor recipient.
(b) NO COST TO FAMILY.—A flag provided under this section shall be provided at no cost to the individual receiving the flag.
(c) CERTIFICATE DESCRIBED.—The certificate described in this subsection is a certificate which reads as follows: “This flag has been flown over the United States Capitol, in honor of the service and sacrifice of recipients of the Medal of Honor, the highest honor awarded to members of the Armed Forces for valor in combat, with profound gratitude on behalf of the United States House of Representatives.”

Madam Speaker, the resolution is simple, its language is succinct, but it is so much more significant than mere symbolism. This resolution provides a family member or the Medal of Honor recipient themselves a U.S. flag flown over this Capitol, along with a certificate which reads as it has been flown over the United States Capitol, in honor of the service and sacrifice of recipients of the Medal of Honor, the highest honor awarded to members of the Armed Forces for valor in combat, with profound gratitude on behalf of the United States House of Representatives.”

Madam Speaker, the Medal of Honor is the highest honor awarded to members of the Armed Forces. And to those living recipients we, as a country, as one Nation, and as this collective House are immeasurably thankful for their service, their sacrifice, and their bravery, which sometimes has meant giving that last full measure of devotion.

I am especially proud of Staff Sergeant Salvatore Giunta, a native of Clinton, Iowa, who is the first living recipient of the Medal of Honor since the Vietnam War and is here in the Capitol for the State of the Union Address this evening and a recognition ceremony tomorrow.

Sergeant Giunta’s service embodies a spirit of selflessness, humility, and determination that Iowans are known for, both in the military and civilian life.

We pass this resolution as a heartfelt expressing ‘thank you’ to those receiving the highest of honors, the Medal of Honor. Madam Speaker, this resolution should garner overwhelming bipartisan support, and I
urge all of my colleagues to support H. Res. 49,
I reserve the balance of my time.

Mr. BRADY of Pennsylvania. I yield myself such time as I may consume.

Madam Speaker, this resolution recognizes the courage and sacrifices of Staff Sergeant Salvatore A. Giunta and other Medal of Honor recipients in defending their country in the line of duty. The Medal of Honor is the highest award of bravery that can be given to a member of the United States Armed Forces.

This resolution will acknowledge our Armed Forces that receive the Medal of Honor by providing them with a flag flown over the Capitol along with a certificate signed by the Speaker of the House. The flag would be provided at no cost to the recipient or family of the recipient.

May this small gesture serve as a constant reminder of our Medal of Honor recipients who act selflessly and heroically in defense of the freedoms that we, the American people, enjoy. I am pleased to support this resolution and urge all of my colleagues to vote "aye."

Madam Speaker, I now yield such time as he may consume to the gentleman from Iowa (Mr. LOEBSACK).

Mr. LOEBSACK. I thank the gentleman from Pennsylvania for yielding.

Madam Speaker, I am particularly honored today to join my friend and colleague, Congressman LATHAM, in offering this resolution.

Tomorrow, the Iowa delegation will join the Chief of Staff of the Army, General George Casey, and Senator INOUYE to honor and recognize Staff Sergeant Salvatore Giunta, the first living Medal of Honor recipient since the Vietnam War.

Staff Sergeant Giunta is from Hiawatha, Iowa, at the moment—although he was born and raised in Clinton. His family, when I am proud to represent in the Second District, I first had the honor of meeting Sergeant Giunta—or Sal—while visiting our troops stationed overseas during the 2009 Thanksgiving holiday, and I was able to have Thanksgiving dinner with him at Vice-Camp.

What immediately struck me about Sergeant Giunta was his humility. He made sergeant in just 4 years. He was a veteran of two tours in Afghanistan by the time he was 22 years old. And while surrounded by Taliban fighters in the Korengal Valley in 2007 and having been hit twice himself, he ran directly into gunfire in order to save his wounded comrades and prevent a U.S. soldier from being captured.

Yet since being awarded the Medal of Honor, Sergeant Giunta has insisted that what he did to save his fellow paratroopers was nothing any other soldier wouldn’t have done. He has insisted time and again, whether at the White House, the Pentagon, or at the State house in Des Moines, that he holds the Medal of Honor on behalf of his fellow servicemembers.

After being inducted into the Pentagon’s Hall of Heroes, Sergeant Giunta refused to let the spotlight rest on him alone. Instead, he saluted those who had come before him and those who have made the ultimate sacrifice in defense of our freedoms.

He said, “To all the ones that can’t be here—not just one or two, but all of them—not just from the 173rd, not just from Battle Company, but from all services, from the Army, the Air Force, the Navy, the Marines, the Coast Guard, the National Guard, the Reserve: Everyone who has ever given so much more than I ever know, I want to say thank you, right now, to those men and those women because without them, I haven’t given anything compared to those who have given everything.”

So I think it is especially appropriate that we have come together to pay tribute not just to Sergeant Giunta, and not just the just the living Medal of Honor recipients of the wars in Iraq and Afghanistan, but to each of the 3,448 men and one woman who have received the highest military honor since President Lincoln signed into law legislation creating the Medal of Honor to create the medal in 1861.

The Medal of Honor is reserved for those who are distinguished “conspicuously by gallantry and intrepidity at the risk of his life above and beyond the call of duty.” It seems only appropriate that we, the people’s House, honor their bravery, their service, and their sacrifice today by directing that the United States flag be flown over the Capitol.

For nearly a decade, the men and women of our All-Volunteer Force, as well as their families, have answered the call of duty and have served our Nation on two fronts often making great sacrifices and carrying out acts of unimaginable bravery that those of us here at home never read about here on the front page.

So even as we come together to honor the bravest of the brave, let us also honor every man and every woman who wears our Nation’s uniform and who has deployed time and again, in many instances, to defend our Nation, missing moments large and small with their families in order to ensure that our freedom endures.

While he may not think of himself as such, to me, Sergeant Giunta is a true American hero. He is who I want my grandkids to grow up looking up to. And that is a sentiment shared by thousands of Iowans who are so tremendously proud of the soldier we’ve come to think of as our hometown hero.

I urge my colleagues to support this legislation as a small token of our appreciation for the incredible bravery demonstrated by Medal of Honor recipients of today and those of past times and past conflicts.

Mr. LATHAM. I want to thank my colleague, Mr. LOEBSACK from Iowa, for joining me in this resolution and his lead cosponsorship on this.

The Medal of Honor, like the gentleman just referred to, has quite a history with Iowa in that back on December 9, 1861, Iowa Senator James W. Grimes first introduced the concept of a medal of honor to promote the efficiency of the Navy at that time. And last year, there was also an effort to recognize people in the Army for their outstanding service and heroic actions.

I was very pleased back in 2002 to introduce a bill; I don’t know how many people were aware of the time, but there was never a flag. We had in Jefferson, Iowa, a memorial for Captain Darrell Lindsey, who was a Medal of Honor winner from World War II; and a man named Bill Kendall, an Army veteran from Jefferson, felt that it was inappropriate that we didn’t have a flag there. So I introduced legislation. Bill Kendall from Jefferson, Iowa, actually designed what is the Medal of Honor flag today, and I am still so appreciative of what he did.

We now at the ceremony down at the White House as the Medal of Honor was given to this next great Iowan to see that flag there, it made me feel very, very proud of the contributions that so many people, Iowans, people all across this country made and dedicated for this country for the kind of honor they deserve. So I’m just very proud of the history we have, and I think this is a very appropriate way of recognizing those contributions.

With that, I reserve the balance of my time.

Mr. BRADY of Pennsylvania. Madam Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. BOSWELL).

(Mr. BOSWELL asked and was given permission to revise and extend his remarks.)

□ 1230

Mr. BOSWELL. Madam Speaker, I rise today as a cosponsor of House Resolution 49, the Staff Sergeant Salvatore A. Giunta Medal of Honor Flag Resolution. As the first living Medal of Honor winner since the Vietnam War, Staff Sergeant Giunta richly deserves to be honored by this House.

The resolution is simple: It provides every Medal of Honor winner or their family with a flag flown over the Capitol in tribute to their service. In addition to this resolution, tomorrow we have the opportunity to join the Chief of Staff of the Army and distinguished guests at a ceremony and reception in the Congressional Auditorium to honor this soldier of whom all Iowans and Americans are incredibly proud.

I am not surprised that, in spite of this praise, Sergeant Giunta has humbly refused to be seen as exceptional. He has at every moment sought to deflect recognition onto his fellow soldiers, men and women in uniform, who wear a Medal of Honor and go bravely every day to support and defend our country and the Constitution. I know all too well that Sergeant Giunta is right and that every
day our men and women in uniform, and their families, offer courageous service that deserves to be recognized.

My hope is that as we honor Sergeant Giunta for gallantry above and beyond the call of duty, we may by extension offer to every member of our Armed Forces and their families our profound gratitude on behalf of the country, our country, and the United States House of Representatives.

Mr. BRADY of Pennsylvania. Madam Speaker, I yield back the balance of my time.

Mr. LATHAM. Madam Speaker, I would just like to say what an honor it is for me to be part of the ceremony tomorrow to honor Staff Sergeant Giunta. Really, he is a model for what people in the military today, the service that they give, the humility that he possesses in the statements that Mr. LOEBSACK made about the fact that in his acceptance he talked about this was not an award and Medal of Honor for him, but for all of his comrades in arms, and how it should be given to everyone who acted so bravely that day. But that certainly is part of what Staff Sergeant Giunta is all about.

The fact that he is such a humble person, someone who believes in the mission, someone who willingly was there to sacrifice himself to save one of his comrades, I think it is so appropriate that we have this recognition today and that we honor all the people in the service today.

Mr. GRAVES of Missouri. Madam Speaker, I yield the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa (Mr. LATHAM) that the House suspend the rules and agree to the resolution, H. Res. 49.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. LATHAM. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. The yeas and nays were ordered.

Mr. GRAVES of Missouri. Madam Speaker, I reserve the balance of my time.

The SPEAKER pro tempore. The yeas and nays were ordered.

Mr. GRAVES of Missouri. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, the role of small businesses is critical to creating new jobs. With the economy continuing to face challenges on several fronts, we need small firms more than ever. Time and again, they have generated the ideas and know-how that fuel job growth. However, entrepreneurs face challenging economic headwinds. Small businesses continue facing obstacles accessing capital, and sales remain flat. Given these realities, we need to make sure that small firms have the resources and tools to start up or expand.

The legislation we are considering today does this and extends the authorization of the several important Small Business Administration programs. Through these initiatives, firms can secure financing, receive training, or compete more effectively for Federal contracts.

While we must keep these programs operational, it is unfortunate that we are doing so through another temporary extension. Last Congress, the House passed 14 bills updating all of SBA’s financing and entrepreneurial development programs. However, while the Senate was able to report a few measures out of committee, they were unable to actually pass any legislation affecting these programs through the Chamber. As a result, we are here
today to temporarily extend the SBA’s initiatives.
Small businesses across the Nation depend on a strong SBA. This is especially true now, when many unemployed individuals are turning to entrepreneurship as a source of income. By ensuring that the agency’s programs do not lapse, we are providing small businesses with the foundation for future growth and, in doing so, helping move the economy forward.

Madam Speaker, I urge a “yes” vote. I yield back the balance of my time.

Mr. GRAVES of Missouri. Madam Speaker, in order to close this debate, let me reiterate that small businesses are going to lead this economic recovery, but we have to provide them with some certainty first. Enacting this legislation before us is going to do just that and let entrepreneurs know that we are back on their side.

Once again I urge my colleagues to support this legislation. I look forward to working with Ranking Member Velázquez and our colleagues on the Small Business Committee for a more permanent extension.

I yield back the balance of my time.

The SPEAKER pro tempore. Pursuant to House Resolution 43, the amendment in the nature of a substitute recommended by the Committee on Rules printed in the resolution is adopted and the resolution, as amended, is considered read.

The text of the resolution, as amended, is as follows:

Resolved, That, pursuant to section 38(b)(1) of House Resolution 5, the Chair of the Committee on the Budget shall include in the Congressional Reserve Fund allocation contemplated by section 32(a) for the Committee on Appropriations for the remainder of fiscal year 2011 that assumes non-security spending at fiscal year 2008 levels or less.

The SPEAKER pro tempore. The gentleman from California (Mr. DREIER) and the gentleman from Massachusetts (Mr. McGovern) each will control 30 minutes.

The Chair recognizes the gentleman from California.

Mr. DREIER. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution.

The SPEAKER pro tempore. Pursuant to House Resolution 43, I am recognizing the gentleman from California (Mr. DREIER) for the final time.

Mr. DREIER. Madam Speaker, I yield myself such time as I may consume.

One of the indelible and enduring images of 2010 was that of violent protesters on the streets of Athens following the proposal of the government to impose austerity measures. We all remember very vividly that scene.

Having come to the brink of collapse and nearly dragging the entire euro zone with it, the Greek government had no choice but to scale back its profligate ways. Thousands of public employees tasted in anger.

Now, Madam Speaker, I contrast that with the image of tens of thousands of peaceful demonstrators across America coming out to express their frustration with excessive government spending. Rather than demanding more Federal largesse, these taxed-enough-already demonstrators actually came together to petition their government for greater restraint and discipline. This might actually have been a first in human history.

It was a powerful illustration of the unique nature of American values. But it was also a testament to just how badly fiscal discipline is needed. This issue is no longer just the purview of budget wonks and economists.

The looming crisis of our national debt is a challenge that working Americans recognize very clearly. While the magnitude of a $14 trillion debt is simply too massive to truly comprehend, those with a modicum of common sense can appreciate the crushing weight that will fall on future generations. If we do not immediately change course, the damage could quickly become irreversible.

Today’s resolution is a clear signal that we are making that change in course. House Resolution 38 is the first step. Madam Speaker, in what will be a long and admittedly difficult process over the next 2 years as we pursue the goal of living within our means. This resolution lays down a marker to return to pre-bailout, pre-binge-spending, pre-stimulus levels.

This resolution provides the framework under which we will finally dispense with the fiscal year 2011 budget which the previous Congress, unfortunately, failed to do.

Near halfway through the fiscal year—we are nearly halfway through the fiscal year—now the imperative is to responsibly finish the work that is really very, very urgent for us to accomplish and deal with at this moment.

Once we move beyond this task, we will immediately pivot to fiscal year 2012. We will craft a budget, we will consider alternatives, with a full debate, and then this House will pass a budget.

We will then proceed with consideration of appropriations bills. We will return to the traditional, open process that always governed our appropriations bills prior to the last couple of years. This will ensure full accountability and true collaboration and restore the deliberative traditions and customs of this body.

There will be very tough choices ahead. Very tough choices need to be made. There is no doubt that we will engage in heated debate, and I suspect we will in just a few minutes right here. But we simply cannot afford to put off the hard work any longer. Madam Speaker, today we take the first step. I urge my colleagues to support this resolution.

I reserve the balance of my time.

Mr. McGovern. I yield myself such time as I may consume.

Madam Speaker, I rise in very, very strong opposition to this resolution. As I said yesterday during the debate on the rule, there are numerous, serious problems with this resolution.

First, it’s meaningless rhetoric. My friends on the other side of the aisle like to talk a lot about cutting government spending, but the resolution before us doesn’t cut a single dollar from the Federal budget; not a single cent.

The Republican Study Committee recently proposed $2.5 trillion in budget cuts, and their chairman, Mr. JORDAN from Ohio, said the following when he introduced this plan:

“One hundred billion dollars is the number the American people heard last fall. It seems to me we should be able to find $100 billion."

Yet even after pledging a $100 billion cut in funding, the distinguished chairman of the Rules Committee couldn’t come up with a number when we asked yesterday, and instead produced what is most likely the first budget resolution in history that doesn’t contain any budget numbers.

That might be because the Republican majority can’t seem to figure out what the numbers should be. We have heard all kinds of numbers. We have heard $30 billion, $50 billion, $100 billion and beyond.

But I suspect, Madam Speaker, that’s because the Republican majority is discovering that it’s a lot harder to walk the walk than it is to talk the talk, and it is a lot easier to say things in a.constants than it is to do things in a legislative body. They are realizing that when you start trying to make those kinds of cuts, you start seriously affecting the American economy and the American people.

We are told that the Congressional Budget Office will produce some numbers tomorrow. I wonder why we couldn’t wait until tomorrow to debate this resolution, but the answer is obvious. The President of the United States will be here this evening for the State of the Union address, and the Republican majority needs a new set of talking points.
It's that kind of politics—where message is more important than substance—that makes the American people cynical about Washington.

Second, the resolution continues the dangerous precedent of giving one individual, the chairman of the Budget Committee—rather than the full membership of this House—the ability to set spending levels for the Federal Government. And third, the resolution's vague and unjustified wording that only targets "non-security" spending, even though everyone from Secretary Gates to Speaker BOEHNER has recognized that waste exists in the Department of Defense and in the Department of Homeland Security and other security-related agencies. It says a great deal about the priorities of a new Republican majority that they will treat wasteful contracts and redundant weapons as sacred, but would put Pell Grants, medical research, food safety, FBI, ATF and DEA agents, and other vital programs on the chopping block.

Of course, when we Democrats have the ability to talk about the need to protect those important programs, our Republican friends grow indignant and head to the fainting couch. "Oh, no," they say, "we would never cut those things." But Madam Speaker, the numbers just don't add up. When you start saying that popular programs after popular program will be protected, you realize that it would take massive cuts in other parts of the budget.

When we talk about exempting only security programs, it means that other programs will need to be cut by 30 percent below current levels. That means the Department of Justice has to cut 4,000 FBI agents, 800 ATF agents, 1,500 DEA agents, and 900 U.S. Marshals. Federal prisons have to cut 5,700 correctional officers. And the Federal Government will lose the capacity to detain 26,000 people because of their immigration status.

Of course, the distinguished chairman of the Rules Committee said we're not going to cut the FBI, as he said yesterday, so I can only assume that means more ATF agents, DEA agents, and U.S. Marshals will be fired by the Republicans. I can only assume that this means more than 26,000 people in this country illegally won't be in Federal custody. That's the Republican agenda?

Madam Speaker, I think former Secretary of State Colin Powell said it best this weekend: "I'm very put off when people just say, let's go back and freeze to the 1998 level." Two years ago. Don't tell me you're going to freeze to a level. That usually is a very inefficient way of doing it. Tell me why you're going to cut.

As I urge my colleagues to reject this misguided resolution, I ask my Republican colleagues, what's the number? And what are you going to cut?

I reserve the balance of my time.

Mr. DREIER. Madam Speaker, I yield myself 30 seconds to say to my good friend, again, that this is the beginning of a process. We have been saddled with a situation where for the first time since the implementation of the 1974 Budget and Impoundment Act, we have voted on a budget. And what we've been left to do? Nearly halfway through the fiscal year, we are faced with this challenge. We now are in a position where we are going to begin going through regular order to ensure that we have a budget, which we didn't do last year, and have an open, free-flowing debate on the amendments through the appropriations process. And I will say to my friend, the defense issues are going to be a high priority when it comes to oversight and scrutiny.

With that, Madam Speaker, I would like to yield 3 minutes to my very good friend and colleague, the distinguished chair of the Committee on the Budget from whom we are going to be hearing later this evening from Janesville, Wisconsin (Mr. RYAN).

Mr. RYAN of Wisconsin. I thank the chair for yielding.

Madam Speaker, I'm enjoying sort of the hyperbolic rhetoric we are hearing here today. As one member of one committee, one man dictating in all these things, as if it's an unprecedented action. Well, this move is not unprecedented. The reason this is necessary is unprecedented. It is unprecedented since 1993. The Budget Act passed that Congress didn't bother to pass or even propose a budget.

Madam Speaker, the reason we are here today is because the last majority last year didn't even bother trying. That means we have no budget in place. And with no budget in place, there's no Budget Act to enforce. That means government is going and spending unchecked. No limits. No police men on the beat. Nothing.

Why are we giving this kind of power to the chairman of the Budget Committee to put these numbers in? Because we don't get the numbers from the Congressional Budget Office until tomorrow. And we've said all along what we aim to do: bring discretionary levels down to pre-balloon, pre-stimulus levels. And then for all the authorizing committees, it has put the CBO baseline in place. The CBO baseline doesn't exist right now. It comes tomorrow. So what we are simply trying to do, Madam Speaker, is get some sense of limits back on spending, is to get some sense of a budget process back in place. We don't think we should have a system, a spending process, without restraints, without limits, without any prioritization. That is exactly why we are doing this.

Business as usual has to come to an end, Madam Speaker, and we've got to put limits on spending. And that is why the Budget Act, to police the spending process to make sure that it conforms, but there is no Budget Act, there is no number to police, because they didn't do a budget last year. That is exactly and precisely why this measure is necessary.

So all the rhetoric aside, the days are over of unlimited spending and of no prioritization. And the days of getting spending under control are just beginning. This is a first step, a small down payment on a necessary process to go forward so that we can leave our kids with a better generation, so we can get this debt under control, so the spending process can change, so we can do right by our constituents and treat their dollars wisely.

Mr. McGovern. I yield myself such time as I may consume.

I'm glad the chairman of the Budget Committee finally joined this debate. And I would say two things. One is that last year we passed the Budget Enforcement Act with real numbers in it, and we voted on it, and it was significantly less than the numbers that the President had proposed, number one. Number two, one of the things that we proposed in the Rules Committee was an amendment to allow Members of the House, on both sides of the aisle, to be able to vote on this bill that was rejected on party line as somehow a radical idea. And then the chairman of the Rules Committee talks about this free-flowing debate we are having. We are having this debate today under a closed rule, and so there's no opportunity for amendment.

Mr. DREIER. Will the gentleman yield?

Mr. McGovern. I yield to the gentle man from California.

Mr. DREIER. I thank my friend for yielding.

I would like to point to our colleagues, Madam Speaker, H. Res. 38. It is literally a one-sentence measure, a one-sentence measure which says that our goal is to get to 2008 levels of spending or less.

Mr. McGovern. I thank the gentleman, and I reclaim my time. I appreciate the brevity of this bill, but that doesn't mean the bill doesn't have a very negative impact. And when we tried yesterday to protect the FBI and enforcement agents from cuts, that was voted down. So we are very concerned because we don't know what the number is. And I think people in this Congress on both sides of the aisle, the American people, ought to know what we're talking about. Is it $100 billion? Or is it more? Where is it? And where are the cuts going to come from when you keep on exempting programs?

With that, Madam Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. Van HOFFEN).

Mr. Van HOFFEN. I thank my colleague.

Here we are a day later. Yesterday we asked our colleagues, what's the number going to be? What's going to be the spending ceiling for this Congress and the United States government? They didn't have it yesterday, and we don't yet have it today. It's a budget resolution without a budget number.
Now we’ve heard a lot of talk about what happened last year. What this budget resolution relates to is 2011. In fact, this body voted last year on a Budget Enforcement Act. I have it right here in my hand. And it set budget ceilings for the next 10 years. Now, you might ask, why didn’t the people voted for it, some people voted against it, but this body did what it always does when it makes decisions of this magnitude. We took accountability for it. Now, if you have a resolution that violates the pledge of transparency because it doesn’t have a single number in it, and it violates the pledge of accountability because you’re asking every other Member of this body to contrive to get his vote out of his own conscience. Now I have great respect for the chairman of the Budget Committee. And I, too, congratulate him on being selected to give the response to the State of the Union address.

This isn’t even a particular individual. It’s about all of us taking responsibility for a major decision. And what this resolution does is contracts out that responsibility. It doesn’t have a number. We don’t know if it’s going to be $100 billion. We don’t know if it’s going to be $80 billion. We don’t know if it’s going to be $40 billion. We don’t know if it’s going to be the number that the Republican Study Committee wants, which the majority leader said good things about. We don’t know.

What we do know is this, that the bipartisan deficit and debt reduction commission told us two things: Number one, we need to act now to put this country on a fiscally sustainable path, and we should do that by working together. They also said another thing, that deep immediate cuts beyond what had been put in place and recommended by the fiscal commission would be a mistake, that any cuts would be a mistake because we are in a very fragile state and risk throwing more Americans out of work. That would be a terrible mistake.

And yet our colleagues want us to make a decision on this without telling us what the number is. So when we asked what the number was, they said, we’re waiting for the Congressional Budget Office. When will the Congressional Budget Office have its numbers? Tomorrow, 24 hours from now. Then we can do the right thing, we can see what the cuts will be, and we can make a decision as a body taking responsibility for this decision.

Why is it we are not waiting 24 hours to act? Well, it’s pretty obvious. A little later today the President of the United States will be here to deliver the State of the Union address, and instead of being serious about this number, they want to deliver a press release. This is about湘潭搞一个窟, otherwise we would wait 24 hours and our friends could tell us what that number would be.

Mr. McGovern. I yield the gentleman an additional 30 seconds.

Mr. VAN HOLLEN. And my friend from Massachusetts talked about his member, his constituents. In the past 20 years, $12 trillion or $20 trillion, those numbers all have consequences because on the other side of the aisle when we say, well, are you going to be cutting research to find cures and treatments for cancer or are you going to cut that. Are you going to cut the FBI agents involved in antiterrorism efforts? No, we would never want to cut that.

And the magnitude of those cuts and the negative impact on jobs and the economy will be determined by what, by the number in this bill, a number that we don’t get to vote on that you are giving the chairman of the Budget Committee sole authority to pick out of.

Mr. Dreier. Madam Speaker, I yield myself 30 seconds to respond to my friend by saying a couple of things.

Unfortunately, we have begun by degenerating the debate to the sky-is-falling mentality again, that we’re going to have these cuts, we’re going to gutting FBI agents. We are beginning the process of getting our fiscal house in order.

Madam Speaker, I think it is important to note that not only both of my friends and I have come up with the term ‘press release’. H. Res. 38 is going to be a statement from the United States House of Representatives that we are today, before the President, at 9 this evening, stands here in this Chamber and delivers his State of the Union message, that we are committing ourselves to reduce the level of spending.

At this point I yield 4 minutes to my very good friend and classmate, the distinguished new chair on the Appropriations Committee, the gentleman from Somers, Kentucky. Mr. Rogers. Mr. ROGERS of Kentucky. Thank you, Mr. Chairman, and thank you for your great service to our country over the time we have served together here. We are classmates from 1980. We were part of the Reagan crop.

Madam Speaker, this is the first step in the effort to reduce discretionary spending to fiscal 2008 levels or below and that this is about the people that we are serious about reducing the out-of-control government spending that is hampering our economic growth.

Now, the gentleman on the other side of the aisle complains that he does not see a number. Well, he had a chance last year, along with his colleagues in the majority then at that time, to pass a budget resolution with specific numbers in it, and refused. And they refused until they lost control of the House. The number will be coming in due course. The message from the American people was crystal clear in the last election: they want government to spend less, stop undue interference in American lives and businesses, and take action to create jobs and get our economy moving once again.

To do this, we must dramatically cut the massive spending that has dominated Washington for decades. In the past two years. In order to put our economy on the fast track to recovery, we have to shorten the reach of Uncle Sam, cut up his credit cards, and allow Americans’ businesses the opportunity to grow, employ people, and make the economy grow.

Starting with the continuing resolution, the CR, my committee will begin to make the largest series of spending cuts in history. Madam Speaker. Members and staff are working diligently on this as we speak, going line by line to find specific areas and programs to cut. We hope and expect this legislation will soon be brought to the floor in a fair, open and transparent manner, giving all Members from both sides of the aisle an opportunity to amend.

Let there be no mistake: the cuts that are coming will not be easy to make. They will not represent low-hanging fruit. These cuts will go deep and wide and will hit virtually every district in the state of Kentucky, including my own. Every dollar that we cut will have a constituency, an industry, an association, and individual citizens who will disagree. And every dollar that we don’t cut will also have a constituency.

But the fact remains that we are in a national fiscal crisis. We must get our budgets—both discretionary and mandatory—under control. To this end, my committee will put forward appropriations bills this year that will fulfill our pledge to cut spending to the pre-stimulus, pre-bailout levels of 2008. And this will be the beginning—not the end—of the effort.

I have issued instructions to all 12 of our subcommittees to conduct strenuous oversight, including investigations and hundreds of hearings to weed out duplicative, wasteful and unnecessary spending, and prioritize Federal programs so we can make the most out of every precious tax dollar.

Madam Speaker, it is clear that cutting spending will require toughness and resolve. This will not be easy, it will not be quick, and it won’t be without pain, but the success of our economy and our future prosperity depend on it.

Mr. McGovern. Madam Speaker, I have great respect for the chairman of the Appropriations Committee, and I appreciate the fact that we are going to have to make tough choices; but he as well failed to tell us what the number is or what those tough choices are going to be. Are we going to cut medical research, Pell Grants, food safety, small business loans, job training programs, LIHEAP, summer food programs for the hungry? What are we going to cut?

I think that Members on both sides of the aisle deserve to know what the
number is so we can figure out what the pain is going to be. For the life of me, I can’t understand, and I don’t think the American people can understand, why Members of this House will not be given an opportunity to vote on that number. We ought to have that right.

I yield 30 seconds to the gentleman from Maryland (Mr. VAN HOLLEN).

Mr. VAN HOLLEN. Madam Speaker, we just heard from the chairman of the Appropriations Committee that there was an amendment in place. I am going to make a copy and ask the pages to distribute this. This is the Budget Enforcement Act for last year, for fiscal year 2011, and there you have the budget ceilings, whereas what you are proposing is a piece of paper that doesn’t set the budget ceilings and doesn’t contain any of the numbers in it.

I would just ask the chairman of the Rules Committee this: During the hearing, you said we were going to wait for CBO: CBO’s numbers are coming tomorrow. Tomorrow are you going to have a number for us?

Mr. DREIER. Will the gentleman yield?

Mr. VAN HOLLEN. For an answer to that question, I would be happy to yield.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. VAN HOLLEN. My time has expired.

Mr. DREIER. Would the gentleman yield to me to respond?

Mr. McGovern. I yield 10 seconds.

Mr. DREIER. I thank my friend for yielding, and let me just say that clearly the budget that we have right now expired at the end of the Congress. We know that very well. And we look forward to numbers which will be coming out from both your new committee, the Budget Committee, and the Appropriations Committee as well.

Mr. VAN HOLLEN. Twenty-four hours, Mr. Chairman. Will you have a number tomorrow?

The SPEAKER pro tempore. The time of the gentleman has again expired.

Mr. DREIER. Madam Speaker, with that I am very happy to yield 1 minute to my good friend from the Harrison Township of Michigan (Mrs. MILLER).

Mrs. MILLER of Michigan. I thank the gentleman for yielding.

Madam Speaker, this past election was certainly a historic pivot for our Nation. The American people demanded that both the President of the United States, as well as the Congress, chart a new course because they understand that the growth of Federal spending that we have seen for the last several years is completely unsustainable. They understand that this crushing burden of debt that we are selfishly placing on our children and our grandchildren is limiting their opportunities. And they also understand very clearly that this irresponsible, out-of-control Federal spending is limiting our ability for job creation and economic growth.

Today, this resolution clearly speaks to the House Republicans’ Pledge to America by demonstrating our commitment to reduce spending to pre-stimulus, 2008 baselines—levels, to a level of spending of 2008.

Many would say, Madam Speaker, that this doesn’t even go far enough, and that debate will continue this year as we debate the budget resolution, and the vote for raising the debt ceiling. Today, Madam Speaker, I would urge all of my colleagues to vote “yes” on this resolution and let the American people know that we heard them loud and clear.

Mr. McGovern, Madam Speaker, I think what the American people are interested in is serious legislating and serious discussion on how to get this budget under control and not political posturing.

At this point I would like to yield 2 minutes to the gentleman from New Jersey (Mr. Andrews).

(Mr. Andrews asked and was given permission to revise and extend his remarks.)

Mr. ANDREWS. I thank the gentleman for yielding.

Mr. McGovern. I yield the gentleman for yielding.

Mr. ANDREWS. I yield to my friend.

Mr. DREIER. I thank my friend for yielding.

Let me say, Madam Speaker, that Speaker Boehner, who is the leader of both these Republicans alike, and who is obviously the leader of Republicans, said this morning in a meeting, as he has said repeatedly, the House is going to work its will. We are going to do something that hasn’t been done, especially in the appropriations process in the last 2 years. We are going to have a debate that will allow a majority of this institution to determine what those numbers are.

The SPEAKER pro tempore. The time of the gentleman has again expired.

Mr. McGovern. I yield the gentleman an additional 30 seconds.

Mr. ANDREWS. I thank the gentleman for yielding.

Mr. McGovern. I yield to the House Republicans’ Pledge to America by demonstrating our commitment to reduce spending to pre-stimulus, 2008 baselines—levels, to a level of spending of 2008.

What will the number be in the bill that eventually gets here?

Mr. DREIER. I’m sorry. I was talking to my new colleague, Mr. MULVANEY, here. If the gentleman was yielding to me, I apologize, but he will have to repeat the question.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. McGovern. I yield the gentleman an additional 1 minute.

Mr. ANDREWS. The question that I asked was:

Will the bill that eventually gets here that has numbers in it have a 25 percent cut by going back to 2008 or a 22 percent cut by going back to 2006?

Mr. DREIER. If the gentleman would yield, I am happy to answer my friend by saying that the House will work its will. It is one of the things that Speaker Boehner has made very clear.

I thank my friend for yielding.

Mr. ANDREWS. Reclaiming my time, I would ask what the bill that the leadership brings to the floor will ask for. Will it be a 25 percent cut that goes back to 2006 or a 22 percent cut that goes back to 2008?

Mr. DREIER. Will the gentleman yield?

Mr. ANDREWS. I yield to my friend.

Mr. DREIER. I thank my friend for yielding.

Here is the way to get our level of spending to 2008.

Now, I say a “25 percent cut” adds up to getting our level of spending to 2008 levels or less—or less, Madam Speaker—and I think it’s important for us to note that.
We have the chairman of the Budget Committee, as I started to say in response to my friend, we have the Appropriations Committee chairman, and we are determined to begin a process.

With that, I am happy to yield 2 minutes to my great new friend from Indiana, Mr. MULVANEY.

Mr. MULVANEY. Thank you, Mr. Chairman.

I rise in favor of the resolution.

As we seek to be able to have this debate this year, I can tell you, Madam Speaker, that we were campaigning last year during 2010. As freshmen, we never expected to have the ability to come into this Chamber this year and talk about the FY 2011 spending. We thought that that would be long before we had gotten here, and I thank my colleagues from across the way for failing to pass a budget last year so that we have the opportunity to have this debate with this new Congress.

For me—and I know, Madam Speaker, for many of my colleagues—the key language in this resolution is 2008 levels or less. It’s that or less that, I think, has a lot of the attention of the freshmen.

In a world where discretionary spending is up 88 percent in the last 2 years, in a world where we have borrowed $3 trillion in just the last 2 years, in a world, Madam Speaker, where we borrowed more money in one day—we borrowed more money on June 30, 2010, than we borrowed in all of 2006—in that world, those two words or less are what speak to me and so many Members of the freshman class.

I thank the Rules Committee, and especially the chairman, for making sure that language is in there, and I am looking forward to exploring that when this bill comes to the floor.

Mr. McGOVERN. Madam Speaker, I yield 1 minute.

I would just simply ask: What is the problem with telling us what the number is and what you’re going to cut?

The number is important because that does determine what you are going to cut. It determines what the allocations are going to be to the various appropriations committees, and they have real consequences. The notion that we are doing something bold here by coming up with this arbitrary, you know, statement that it’s 2008 or less levels is going to go without any detail, without any numbers, without anything of anything, is political posturing at its worse.

With that, I would like to yield 2 minutes to the gentlewoman from California, Mrs. Capps.

Mrs. CAPPs. I thank my colleague for yielding.

Madam Speaker, I rise in strong opposition to this misguided and misdirected and destructive resolution.

The American people have charged us with creating jobs and strengthening our economy. My colleagues in the majority appear more focused on getting in a good sound bite before tonight’s State of the Union.

Procedurally, this resolution empowers a single person to decree the entire Nation’s budget for the rest of the year—no hearings, no markups, no vote. And this plan is nothing more than a gimmick to cut jobs.

For example, reverting to 2008 budget levels will cut more than $17 million from the National Health Service Corp. This program trains and employs health care providers, all while caring for millions of Americans. Moreover, it will cut both nurse faculty loan programs and nursing training programs by nearly 70 percent. These cuts will decimate our health care workforce now and long into the future.

Madam Speaker, in 2008, over 27,000 qualified applicants to our Nation’s nursing schools were turned away because we didn’t have enough faculty to train them. Countless others couldn’t even afford to go. This budgetless resolution will do more than exacerbate a real growing problem.

Members from both sides of the aisle know that we desperately need to increase our health care workforce, not cut it. Instead of cutting jobs, we should be creating them, so I urge my colleagues to vote no on this budgetless resolution.

Mr. DREIER. Madam Speaker, I yield myself 30 seconds to say to my very good friend from Santa Barbara that this plan is nothing more than a gimmick that will destroy jobs.

With that, I am very happy to yield 1 minute to my very good friend from Richmond, the distinguished majority leader, Mr. CANTOR.

Mr. CANTOR. I thank the gentleman from California, the chairman of the Rules Committee.

Madam Speaker, November 2 marked the culmination of a long, arduous and ultimately clarifying debate over the kind of role government should play in the economy. By overwhelming margins, voters rejected an approach that spends money we don’t have and concentrates too much control and power in Washington.

Instead, they voted for a better way. Republicans are determined to deliver results by instilling a culture of opportunity, responsibility, and success. Our majority is dedicated to cut and grow: cut spending and job-destroying regulations, grow private sector jobs and the economy.

Today, we have the opportunity to take a significant step toward repairing America’s deteriorating fiscal condition. This resolution directs the Budget Committee chairman to set spending levels so we return non-defense discretionary spending to 2008 levels or below.

If you think the government didn’t spend enough money in 2008, then oppose this resolution; go on record for more spending, more borrowing, and more debt. But, Madam Speaker, if you believe we are spending too much money, then I urge my colleagues to support this resolution. It represents a clean break with the past and an end to the unchecked growth in spending and government, and it is worthy of our support.

Mr. McGOVERN. Madam Speaker, I am still waiting to hear the number and how much we’re going to cut. I am waiting to see this transparency and accountability.

I yield 2 minutes to the gentleman from Washington (Mr. DICKs).

Mr. DICKs. While the Democratic Caucus in the House remains committed to fiscal responsibility, we have two major concerns at this point that should be stated as we consider this resolution at the outset of the 112th Congress.

First, we must recognize that the highest priority at this point is to get our economy moving again, supporting initiatives that help create jobs and that continue to bring us out of the recession. Our economy is still fragile, and although unemployment is heading downward, it remains far too high. In this regard, I believe we must be concerned about a precipitous and substantial drop in spending if it is going to result in increasing unemployment and increasing the deficit. It is going to have exactly the opposite effect of what is intended on the Republican side. It would truly be counterproductive if we added to the ranks of the unemployed workers in America, reducing revenues coming into the Treasury and requiring additional expenditures for unemployment insurance and welfare.

And second, the resolution we are considering today specifically exempts defense—the largest element of our Federal budget—from any reductions. Even though I have always supported a strong national defense, I cannot imagine why we would hold the Pentagon harmless in the attempt to achieve greater fiscal accountability. Even the Republican majority leader this week acknowledged that defense should be on the table, and Secretary Gates himself has proposed a series of reasonable reductions that could be accomplished in his department’s budget.

In the FY 2011 bill the Defense Appropriations Subcommittee, which I chaired with Mr. Young of Florida, adopted last July, included a reduction of $7 billion from the Obama budget request, and the Senate Appropriations Committee had a similar number. I think we can very safely record that I am glad to see that Mr. Boehm, Mr. CANTOR, and others have all said that defense should be part of the solution. I think we can cut up to $13 billion out
of the defense budget without doing any damage to national security.

Mr. DREIER. Madam Speaker, I yield myself 30 seconds to say to my very good friend from Seattle that I am in complete agreement with the notion of ensuring that we focus time, energy, and effort on paring back waste, fraud, and abuse, especially within the Pentagon. We all know that it’s there. And I’m glad that my friend from Worcester raised that issue in his opening remarks. He somehow was arguing that we have made some progress. We have.

The focus today is obviously on non-security discretionary spending, and that’s exactly what we are trying to do with this first try.

Mr. DICKS. Will the gentleman yield?

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. DREIER. I am happy to yield my friend 15 seconds, Madam Speaker.

Mr. DICKS. I would just say we ought to do a number of things. I think it’s time that we have more openness in the way we do business, that we will make it easier. This gives us a bargaining chip with the President and with the Senate. We can make some reductions in defense.

Mr. DREIER. If I could reclaim my time, Madam Speaker, I would say to my friend that we have gone without a budget so far. We have to change some of the policies, but we agree on the principles. But what we have here today contains no policies, no ideas, and very few principles.

There is a budgetless resolution. It calls for a reduction in spending to pre-2008 levels but provides no specifics. What family in America would sit down at the kitchen table and set up a budget without a bottom line?

We could be here discussing Mr. RYAN’s idea to replace Medicaid with vouchers. We could be here discussing the plan to cut public education spending 50 percent and to eliminate Amtrak and public broadcasting. Let’s discuss those things. Or we could be debating the plan Majority Leader CANTOR hailed, which would result in the absence of 4,000 FBI agents and 1,500 DEA agents. We may disagree with those policies, but I am here to work to solve problems. And to say we will drop spending levels up to 30 percent but provide no specifics is being less than genuine.

Colin Powell recently said this: “I am very put off when people just say let’s go back and freeze to the level 2 years ago. Tell me what you’re going to cut, and nobody up there yet is being very, very candid about what they are going to cut to fix the problem.”

The public has been very clear; job creation should be our top priority. So far we have abandoned the principles of pay-as-you-go and added $230 billion to the deficit by repealing—you voted for it—health care.

The SPEAKER pro tempore (Mr. LATHAM). The time of the gentleman has expired.

Mr. DREIER. The time of the gentleman has expired.

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The SPEAKER pro tempore (Mr. LATHAM). The time of the gentleman has expired.

Mr. DREIER. The time of the gentleman has expired.
spending by a hundred billion, which it has taken them less than a month to break; and, today, a one-page resolution with no numbers and no specifics. I think this resolution is unprecedented, certainly in the 30 years that I've been here, which gives to one person out of the 435 the opportunity and the authority to set a number that we will consider in this House. I don't think that's preceded. I don't think it's democratic. It's not transparent. And it's not an open process.

Colin Powell has already been quoted, but we're still waiting for the answer of what is going to be cut. At a time when getting out of debt, growing the economy, and creating jobs are our country's defining bipartisan challenges, we need hard choices—not more political theater.

Now, we passed a budget enforcement resolution which was criticized by the other side because we didn't pass a full budget. I think that's, perhaps, correct. The time of the gentleman has expired. Mr. McGovern. I yield the gentleman an additional 1 minute.

Mr. HOYER. I thank the gentleman for yielding the additional 1 minute.

Mr. McGovern. We're being criticized; but in that budget enforcement resolution, we had a number, and when you voted on the rule, you knew the number you were voting on as a House of Representatives. Here you have no idea what you're voting on. You could be voting for 2088 numbers or anything less than that under this resolution.

Mr. DREIER. Will the gentleman yield? And I will yield my friend additional time.

Mr. McGovern. I yield to the gentleman from California.

Mr. DREIER. I thank my friend for yielding.

Mr. Speaker, that is the beginning of a process that one-sentence resolution that will allow this House to go on record making a strong commitment to reducing the level of spending. And my friend was absolutely right in his opening remarks when he said that everyone wants us to reduce the deficit. And he's right. This may be unprecedented, but we're in unprecedented times.

I would yield my friend an additional 30 seconds.

Mr. DREIER. I thank the gentleman for his generosity.

But let me say to the gentleman, it may be unprecedented times; but it does not warrant this unprecedented abdication of democracy in this House in setting what is probably the most critical question that confronts government: How much are you going to pay for it? I think we all agree on that. That's what is at issue here.

And this resolution does not allow Members of Congress to engage in that. It gives to one person the ability to set that number. It's not only unprecedented; it, in my opinion, is undemocratic—with a small "d." It does not provide the transparency and the openness of which the gentleman has correctly spoken and I hope we pursue. And I hope that we oppose this resolution.

Mr. DREIER. I continue to reserve the balance of my time.

Mr. McGovern. I yield 1¼ minutes to the gentleman from Massachusetts. I think the gentleman from California a colleague that I've known for a considerable time; and I know that there are certainly good intentions; but I always believe that when you're elected to this powerful body that represents over 300 million Americans, as the census has given us new numbers of how many Americans we have the privilege of representing, you do have to speak about the future.

When you begin to talk about generic numbers going back to 2008 levels, you are speaking generally without substance because it is our commitment to be able to move America forward. And I hope the President will stay in the blue column because you can see the pink columns. There is no job creation.

So when you talk about reducing the deficit, it must be with a plan; it must be with substance. Because you can repeal with no substance.

And I just raise the question: Do we want a Nation that does not invest in education? Do we want a Nation that does not help our businesses invest to create jobs? And do we want a Nation that says that security, the FBI, the DEA—someone called in today and talked about how important it was to ensure that we had the right kind of law enforcement. Or do we want to tell those who are on Social Security who have worked, literally worked, or are disabled, that there are no more dollars for them because we have just without any guidance gone back to 2008 levels? I would just ask that we move this country forward, Mr. Speaker, and I ask that we invest in America.

Mr. DREIER. Mr. Speaker, I continue to reserve the balance of my time.

Mr. McGovern. I yield myself the balance of my time.

Mr. Speaker, the problem with this resolution, as has been stated over and over again, is that it is a press release. It contains no number. People on the other side talk about tough choices. It doesn't talk about any of the tough choices. It exempts defense spending from any cuts, so fraudulent defense contracts are somehow okay. It's better that waste and abuse in domestic spending programs. Everything should be on the table when we're talking about getting this budget deficit under control.

The reason why the number is so important is because that number determines how much we're going to allocate to the various appropriations committees; and that in turn determines really the severity of a lot of the cuts that are going to have to be made: cuts in medical research—research to try to find a cure to cancer; cuts in programs to help feed hungry children; cuts in programs to provide emergency fuel assistance to low-income people during the winter months; cuts in small business loans that can help small businesses get the capital they need to grow and create jobs.

We should be talking about jobs in the opening of this debate, instead, what we have talked about are the old ideological battles of the past. Last week we repealed the entire health care bill. This week, we're passing a budget resolution that has no number in it. I mean, this is a first. This is unprecedented. And I think the American people who are watching are wondering why in the world can't you tell us what the number is; why in the world can't you give us a sense of what you're going to cut.

Why in the world can't you even vote on it? There are 435 Members of this House; only one Member is going to be able to determine what that budget number is.

Mr. McGovern. I yield myself the balance of my time.

Mr. Speaker, we are engaged in political theater today. We know the CBO will come out with numbers tomorrow, but the Republicans feel it's important to do this today because somehow they think the press will pay attention to this and they'll be able to have a countermessage to the President's State of the Union address. They are blowing a major opportunity.

Mr. DREIER. The SPEAKER pro tempore. The time of the gentleman has expired. Mr. McGovern. Mr. Speaker, how much time do I have remaining?

Mr. DREIER. The SPEAKER pro tempore. The gentleman has 1 minute remaining.

Mr. McGovern. I yield myself the balance of my time.

Mr. Speaker, we have bipartisan consensus about the budget. There is a bipartisan consensus that we need to find cuts. And rather than working in a bipartisan way, we have a bill that comes to the floor under a closed rule. We are told that the chairman of the Budget Committee can unilaterally come up with a number; the rest of us are irrelevant to this process. That's not the way it's supposed to be. And I think that the Republican majority owes it not only to the Members of this Congress, but they owe it to the American people to tell the American people where they're going to cut, how deeply they're going to cut, who's going to be impacted. Because I will tell you this: Who's going to be impacted are real people, and they're going to feel the pain of some of these cuts.

With that, Mr. Speaker, I urge my colleagues to vote against this misguided resolution, this press release. I yield back the balance of my time.

Mr. DREIER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, we have bipartisan consensus around here. We need to get our
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ecology back on track, and we need to do everything that we can to cut Federal spending. The distinguished minority whip just said as much. So there is a consensus, and I think that’s wonderful.

In a few hours, 9 o’clock this evening, Democrats are going to be sitting with Republicans; Republicans are going to be sitting with Democrats. It’s going to be unprecedented. And I will say that Mr. Hoyer referred to this simple one-sentence resolution as unprecedented. And I believe that it probably is unprecedented.

What it says—I mean, I have almost memorized the one sentence. Mr. Speaker, it says that we need to make sure that the Budget Committee and the Appropriations Committee work to get us to 2008 spending levels or less. I personally believe that we should be substantially below 2008 levels. I believe that we need to take that kind of action.

And it’s true, before the President stands right over my shoulder at 9 o’clock this evening and delivers his State of the Union message, we want to be on record saying that we are committed to doing everything that we can to get the spending levels to 2008 or less.

Now, Mr. Speaker, we are in the position we are, and that itself is unprecedented, and that’s why unprecedented action is necessary.

Now, I began my remarks by talking about the fact that probably one of the most profound moments of the Pentacostal of 2010 was what took place in Athens, Greece. We saw the riots take place in the streets from public service employees in the wake of the government facing the responsibility of imposing austerity standards on the people of Greece. And what happened? We saw this huge outcry come because they were arguing that they couldn’t, in fact, bring about cuts in spending. I juxtapose that with what I saw in the last 25 years. We saw tens of thousands of Americans taking to the streets carrying this message: Taxed Enough Already. They came together to petition their government to bring about cuts in spending. Not complaining that the government was making cuts; complaining that the government wasn’t making enough cuts. And that’s exactly what we’re doing.

In fact, Mr. Speaker, I believe that this may be the first time in human history that we have witnessed what it was that we saw take place last year and led to the outcome in the November 2 election. We know that the greatest opposition to the House Republican majority took place in this institution. Sixty-three members of the Democratic Party were defeated. We now have 87 new Republicans and nine new Democrats who have joined with us, and they have carried this message to us that we need to rein in spending.

Now, Mr. Speaker, I think it’s important to note that our real goal is above that. It is job creation and economic growth, getting our economy back on track so that people out there who are trying to get onto the first rung of the economic ladder are able do just that. We have a painfully high unemployment rate, and people across this country are hurting.

Now, Mr. Speaker, what steps can we take to create jobs? I personally believe that we need to do—and I look forward to having the President talk about. We need to take up new markets around the world so that union and nonunion workers in the United States of America can have the opportunity to sell goods and provide services into countries like Colombia and Panama and South Korea, where these pending agreements exist.

I believe that since Japan has brought about a reduction in its top corporate rate, the rate of those job creators, we can reduce the top corporate rate—it’s the highest rate of any country in the world now—from 35 to 25 percent. I understand the President may be proposing that this evening. That will go a long way towards creating jobs.

But, Mr. Speaker, what we’re doing with H. Res. 38 is we are getting ourselves on a path towards fiscal responsibility, and I believe that that is one of the most important things that we can do as we seek this shared goal of job creation and economic growth. So if we can be on record going on record in support of getting to 2008 levels or less, I am convinced that that will be a strong step towards our goal, our shared goal of creating jobs and establishing economic growth.

This is the beginning of a process, Mr. Speaker, the beginning of a process; again, a one-sentence resolution that this House will be voting on in just a few minutes. But the process, itself, is one that is broken. It’s broken because for the first time since the laudable plan announced by Secretary Robert Gates in 1997, the Pentagon’s budget by $78 billion, defense spending will continue to increase in the near term.

There are many thoughtful ways to rein in defense spending. More than $350 billion has been spent by the U.S. in Afghanistan since 2001, a monthly bill for our taxpayers exceeding $8 billion. The U.S. military is the single largest consumer of energy in the world, using as much power in one year as the entire country of Nigeria, and spending $17 billion each year on petrol and another $23 billion on maintenance refueling the 130,000 vehicles in Afghanistan. Integrating renewable and energy efficient practices into our armed services have already saved lives and money. Finally, we should eliminate unnecessary weapons programs, such as the Expeditionary Fighting Vehicle. Despite the Marine Corps commandant calling the program unworkable and unaffordable, some lawmakers continue to insist on funding it.

While today’s resolution fails to address this problem, it is my hope that we’ll be able to work in a bipartisan fashion to “right-size” all areas of government spending, including the Pentagon.

Unfortunately, the proposal put forth by the Republican Study Committee earlier this week would reduce the non-security spending to FY 2008 levels or less for the remainder of FY 2011. I would hope that having demonstrated that even the legislature itself is not exempt, that the Republican leadership would reconsider its decision to declare off limits the major areas of government spending, particularly the Department of Defense.

If we are truly to improve our fiscal condition, no part of the budget should be off limits. The Pentagon cannot be left out. We can no longer afford a meager bill for our taxpayers exceeding $8 billion. The U.S. military is the single largest consumer of energy in the world, using as much power in one year as the entire country of Nigeria, and spending $17 billion each year on petrol and another $23 billion on maintenance refueling the 130,000 vehicles in Afghanistan. Integrating renewable and energy efficient practices into our armed services have already saved lives and money. Finally, we should eliminate unnecessary weapons programs, such as the Expeditionary Fighting Vehicle. Despite the Marine Corps commandant calling the program unworkable and unaffordable, some lawmakers continue to insist on funding it.

While today’s resolution fails to address this problem, it is my hope that we’ll be able to work in a bipartisan fashion to “right-size” all areas of government spending, including the Pentagon.
and dumping 389,000 children from Head Start—destroying opportunities for those children while weakening America’s competitiveness.

The Republican Study Committee’s proposal would also destroy thousands of jobs renewing and rebuilding America’s eroding infrastructure. For instance, cutting $2 billion from the New Starts program would destroy nearly 46,000 jobs and cutting Amtrak funding by $1.6 billion would destroy 36,000. Eliminating these programs makes it harder for those Americans with work to get to work or to find new work.

There are many more examples just like these that hit every community in our country. While we strive to better match our revenues with the cost of services to our constituents, it is important not to destroy the very programs that make our country strong and economically competitive and on which our citizens depend.

Mr. JORDAN. Mr. Speaker, the American people have spoken loud and clear—they want Congress to stop the out-of-control spending that is bankrupting our Nation.

During the campaign last year, Republicans called for reducing non-security, discretionary spending in Fiscal Year 2011 by $100 billion as a down payment toward the cuts needed to get America’s finances back on track. Now that the power has changed over, and the American people have given us one more chance to make things right, they want to see us do what we said we would do.

H. Res. 38 is a good first step—and I’m going to support it—but it does not get us the full $100 billion.

Mr. Speaker, we need to keep the $100 billion promise we made to the American people! I filed an amendment last night that would keep the $100 billion promise. We would be debating that amendment right now, had this resolution come to the floor under an open rule.

The good news is . . . and I applaud our leadership for taking this position . . . sometime over the next few weeks, we will have another chance to keep this promise as we debate the continuing resolution under an open rule.

Though some say keeping the $100 billion promise would be too difficult, the folks I get the privilege to represent back home say “This is the least we can do!”

They understand that $100 billion is only about one-thirteenth of the deficit. They understand that cutting $100 billion only gets us one-thirteenth of the way to a balanced budget.

Rebuilding the trust of the people means keeping our word. We need to keep our promise.

Mr. LANGEVIN. Mr. Speaker, I rise in opposition to House Resolution 38, which imposes dramatic cuts to our budget without any regard to its effects on our Nation’s economic recovery or Rhode Island families struggling to stay afloat.

Our Nation faces a serious budget deficit, but we also face a jobs deficit and a fragile economic recovery. Rhode Island currently has the fifth highest unemployment rate in the country at 11.5 percent. The Republican proposal to cut non-security programs by 21 percent goes too far too fast, resulting in additional potential job losses and reductions to critical services that could threaten our economic recovery and countless families who are barely getting by as it is. It makes drastic cuts to our school systems and student aid for college, slashes housing assistance in the wake of record foreclosures, and reduces lending support for small businesses.

This proposal is contrary to the recommendations of the Bipartisan Fiscal Commission, of which some of our Republican leaders were participants. In its final report released on December 1, 2010—less than eight weeks ago—the commission stated in its second section, page 27, that: “The United States should get back on track, so they should cut gradually so they don’t interfere with the ongoing economic recovery. Growth is essential to restoring fiscal strength.” The Commission then stated in its first recommendation that we should not return to pre-recession 2008 levels until 2013. This proposal contained a lot of controversial ideas to be sure, but the general consensus regardless of party affiliation highlighted the need for caution in crafting an effective deficit reduction plan.

Mr. Speaker, I wholeheartedly agree that we need to get our fiscal house in order, but we must do it in a responsible and balanced manner. This proposal rushes to judgment before the process has even begun. I urge my colleagues to reject this resolution and begin a serious discussion of deficit reduction that will address our fiscal challenges without imperiling our economic recovery.

Mr. DINGELL. Mr. Speaker, I rise in opposition to H. Res. 38, a vague and reckless “budget-less” budget resolution. H. Res. 38 claims to reduce non-security spending to fiscal year 2008 levels or less, but this one-page budget resolution does not specify how it actually makes any specific cuts. Instead, this resolution grants all authority to the Chair of the House Committee on the Budget to set the budget allocations for the Committee on Appropriations. This entities the Chairman to merely have the allocations printed in the CONGRESSIONAL RECORD. So much for an open and transparent process. So much for allowing the Committees of jurisdiction to do their work. Mr. Speaker, we declared our independence from Great Britain precisely because we believe in open, competing, and fair debate here where we are making one out of the Chairman of the House Committee on the Budget.

By allowing only one hour of debate on the resolution and no amendments, Republican leadership seeks to bypass the deliberation and debate by Members of Congress. Republican leadership also struck down a motion that would have required a vote by the full House before any allocation could become effective, once again limiting input by the Members of the House. As a result, this proposal was made without input from fiscal responsibility. I urge my colleagues to do the same.

Mr. DREIER. I yield back the balance of my time.

The SPEAKER pro tempore. The previous question is ordered on the resolution, as amended. The motion to recommit.

Mr. BISHOP of New York. Mr. Speaker, I have a motion to recommit at the desk.

The SPEAKER pro tempore. Is the gentleman opposed to the resolution? Mr. BISHOP of New York. Indeed, I am.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk reads as follows:

Mr. Bishop of New York moves to recommit the resolution H. Res. 38 to the Committee on Rules with instructions to report the same to the House forthwith with the following amendments:

Page 2, line 1, insert “(a)” after “that”.

Page 2, line 2, insert the following before the period: “, and (2) no spending for any contract entered into by the United States Government with a company that has been determined by the Secretary of Labor to have offshore or outsourced American jobs overseas”.

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The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.
The question was taken, and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BISHOP of New York. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

Pursuant to clause 8 and clause 9 of rule XX, this 15-minute vote on the motion to reconsider will be followed by 5-minute votes on adoption of the resolution, if ordered; and the motion to suspend the rules with regard to House Resolution 48.

The vote was taken by electronic device, and there were—yeas 184, nays 242, answered “present” 1, not voting 7, as follows:

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Mr. ROKITA. Madam Speaker, on rollcall 19, I was unavoidably detained. Had I been present I would have voted “no.”

The SPEAKER pro tempore (Mrs. CAPITO). The question is on the resolution.

The question was taken, and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. POLIS. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 256, nays 165, not voting 13, as follows:

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### Resolution 13

**Maisons GOSAR, HIMES, and SCHOCK changed their vote from “yea” to “nay.”**

Mr. SCHAKOWSKY. Messrs. FARR, ALTMIRE, BREALY of Iowa, LANGEVIN, and LEWIS of Georgia changed their vote from “nay” to “yea.”

So the motion to reconsider was rejected.

The result of the vote was announced as above recorded.

Stated against:

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Mr. SCHAKOWSKY. Messrs. FARR, ALTMIRE, BREALY of Iowa, LANGEVIN, and LEWIS of Georgia changed their vote from “nay” to “yea.”

So the motion to reconsider was rejected.

The result of the vote was announced as above recorded.

Stated against:
Mr. BRALEY of Iowa. Madam Speaker, I regret missing a floor vote on Tuesday, January 25, 2011. Had I registered my vote, I would have voted “nay” on rollover vote No. 20, on agreeing to the resolution, H. Res. 38—To reduce spending through a transition to non-sequestration spending at fiscal year 2008 levels.

STAFF SERGEANT SALVATORE A. GIUNTA MEDAL OF HONOR FLAG RESOLUTION

The SPEAKER pro tempore. The resolution (H. Res. 49) providing for the presentation of the Medal of Honor to Staff Sergeant Salvatore A. Giunta was agreed to.

A motion to reconsider was laid on the table, and the vote was announced.

The result of the vote was announced to be—yeas 242, nays 0, not voting 10, as follows:

Mr. LARSON of Connecticut changed his vote from “yea” to “nay.” So the resolution was agreed to.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa, Mr. LARATI, that the House suspend the rules and agree to the resolution.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 242, nays 0, not voting 10, as follows:

[Vote List]

Mr. LARSON of Connecticut filed an amendment to the resolution, the text of which was printed in the perfected calendar. The amendment was agreed to.

Mr. GENE GREEN of Texas. Madam Speaker, on rollover vote No. 20, had I been present, I would have voted “nay.”

So (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.
The result of the vote was announced as above recorded.
A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 359, ELIMINATING TAXPAYER FINANCING OF PRESIDENTIAL ELECTIONS
Ms. FOXX, from the Committee on Rules, submitted a privileged report (Rept. No. 112–5) on the resolution (H. Res. 54) providing for consideration of the bill (H.R. 359) to reduce Federal spending and the deficit by terminating taxpayer financing of Presidential election campaigns and party conventions, which was referred to the House Calendar and ordered to be printed.

COMMUNICATION FROM THE DEMOCRATIC LEADER
The SPEAKER pro tempore laid before the House the following communication from the Honorable NANCY PELOSI, House Democratic Leader:

DEAR SPEAKER BOEHNER: Pursuant to Section 114(b) of the John C. Stennis Center for Public Service Training and Development Act (2 U.S.C. 1103), I hereby appoint the Honorable Terri A. Sewell of Alabama to the Board of Trustees for the John C. Stennis Center for Public Service Training and Development for a term of six years.

Sincerely,

NANCY PELOSI,
House Democratic Leader.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE
The SPEAKER pro tempore. After consultation among the Speaker and the majority and minority leaders, and with their consent, the Chair announces that, when the two Houses meet tonight in joint session to hear an address by the President of the United States, only the doors immediately opposite the Speaker and those immediately to his left and right will be open.

No one will be allowed on the floor of the House who does not have the privilege of the floor of the House. Due to the large attendance that is anticipated, the rule regarding the privilege of the floor must be strictly enforced. Children of Members will not be permitted on the floor. The cooperation of all Members is requested.

The practice of reserving seats prior to the joint session by placard will not be allowed. Members may reserve their seats only by physical presence following the security sweep of the Chamber.

RECESS
The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 8:35 p.m. for the purpose of receiving in joint session the President of the United States.

Accordingly (at 2 o’clock and 33 minutes p.m.), the House stood in recess until approximately 8:35 p.m.

□ 2039

AFTER RECESS
The recess having expired, the House was called to order by the Speaker at 8 o’clock and 39 minutes p.m.

JOINT SESSION OF CONGRESS PURSUANT TO HOUSE CONCURRENT RESOLUTION 10 TO RECEIVE A MESSAGE FROM THE PRESIDENT
The Speaker of the House presided. The Deputy Sergeant at Arms, Mrs. Kerri Hanley, announced the Vice President and Members of the U.S. Senate, who entered the Hall of the House of Representatives, the Vice President taking the chair at the right of the Speaker, and the Members of the Senate the seats reserved for them.
The SPEAKER. The Chair appoints as members of the committee on the part of the House to escort the President of the United States into the Chamber:
The gentleman from Virginia (Mr. CANTOR);
The gentleman from California (Mr. MCCARTHY);
The gentleman from Texas (Mr. HENSARLING);
The gentleman from Texas (Mr. SESSIONS);
The gentleman from Georgia (Mr. PRICE);
The gentleman from Washington (Mrs. McMorris Rodgers);
The gentleman from Texas (Mr. CARTER);
The gentleman from California (Ms. PELOSI);
The gentleman from Maryland (Mr. HOYER);
The gentleman from South Carolina (Mr. CLYBURN);
The gentleman from Connecticut (Mr. LARSON);
The gentleman from California (Mr. BECERRA);
The gentleman from New York (Mr. ISRAEL); and
The gentlewoman from Alabama (Ms. SHEWELL).
The VICE PRESIDENT. The President of the Senate, at the direction of that body, appoints the following Senators as members of the committee on the part of the Senate to escort the President of the United States into the House Chamber:
The Senator from Nevada (Mr. REID);
The Senator from Illinois (Mr. DURBIN);
The Senator from New York (Mr. SCHUMER);
The Senator from Washington (Mrs. MURRAY);
as a nation. But there’s a reason the tragedy in Tucson gave us pause: Amid all the noise and passions and rancor of our public debate, Tucson reminded us that, no matter who we are or where we come from, each of us is a part of something greater, something more consequential than parties or political preference. We are part of the American family. We believe that, in a country where every race and faith and point of view can be found, we are still bound together as one people, that we share common hopes and a common creed, that the dreams of a little girl in Tucson are not so different than those of our own children, and that they all deserve the chance to be fulfilled.

That, too, is what sets us apart as a nation.

Now, by itself, this simple recognition won’t usher in a new era of cooperation. What comes of this moment is up to us. What comes of this moment will be determined, not by whether we can win this election tonight, but whether we can work together tomorrow. I believe we can and I believe we must.

That’s what the people who sent us here expect of us. With their votes, they have determined that governing will now be a shared responsibility between parties. New laws will only pass with support from Democrats and Republicans. We will move forward together or not at all—for the challenges we face are bigger than party and bigger than politics.

At stake right now is not who wins the next election—after all, we just had an election. At stake is whether new jobs and industries take root in this country or somewhere else. It’s whether the hard work and industry of our people is rewarded. It’s whether we sustain the leadership that has made America, not just a place on a map, but a light to the world.

We’ve poised for progress. Two years after the worst recession most of us have ever known, the stock market has come roaring back. Corporate profits are up. The economy is growing again—but we have never measured progress by these yardsticks alone. We measure progress by the success of our people, by the jobs they can find, and the quality of life those jobs offer, by the prospects of a small business owner who dreams of turning a good idea into a great company, by the opportunities for a better life that we pass on to our children.

That’s the project the American people want us to work on. Together.

We did that in December. Thanks to the tax cuts we passed, Americans’ paychecks are a little bigger today. Every business can write off the full cost of the new investments they make this year; and these steps, taken by Democrats and Republicans, will grow the economy and add to the more than 1 million private sector jobs created last year, but we have to do more. These steps we have taken over the last 2 years may have broken the back of this recession; but to win the future, we’ll need to take on challenges that have been decades in the making.

Many people watching tonight can probably remember a time when finding a good job meant showing up at a nearby factory or a business downtown. You didn’t always need a degree, and your competition was pretty much limited to your neighbors. If you worked hard, chances are you’d have a job for life, with a decent paycheck, good benefits, and a pension. Maybe you’d even have the pride of seeing your kids work at the same company.

That world has changed, and for many, the change has been painful. I’ve seen it in the shuttered windows of once booming factories and the vacant storefronts of once busy Main Streets. I’ve heard it in the frustrations of Americans who have seen their paychecks dwindle or their jobs disappear—proud men and women who feel like the rules have been changed in the middle of the game.

They’re right. The rules have changed—and fast.

In a single generation, revolutions in technology have transformed the way we live, work, and do business. Steel mills that once needed 1,000 workers can now do the same work with 100. Today, just about any company can set up shop, hire workers, and sell their products wherever there’s an Internet connection. Meanwhile, nations like China and India realized that, with some changes of their own, they could compete, so they started educating their children earlier and longer, with greater emphasis on math and science. They’re investing in research and new technologies. Just recently, China became the home to the world’s largest solar research facility and the world’s fastest computer.

So, yes, the world has changed. The competition for jobs is real, but this shouldn’t discourage us. It should challenge us.

Remember, for all the hits we’ve taken these last few years, for all the naysayers predicting our decline, America still has the largest, most prosperous economy in the world. No workers are more productive than ours. No country has more successful companies or grants more patents to inventors and entrepreneurs. We are home to the world’s best colleges and universities, where more students come to study than anyplace on Earth.

What’s more, we are the first nation to be founded for the sake of an idea—the idea that each of us deserves the chance to shape our own destiny. That’s why by the 1960s, pioneers and immigrants had risked everything to come here. It’s why our students just don’t memorize equations but answer questions like “What do you think of that idea? What would you change about the world? What do you want to be when you grow up?”

The future is ours to win, but to get there, we can’t just stand still. As Robert Kennedy told us, “The future is not a gift. It is an achievement.” Sustaining the American dream has never been about standing pat. It has required each generation to sacrifice and struggle and meet the demands of a new age.

Now it’s our turn.

We know it what it takes to compete for the jobs and industries of our time. We need to out-innovate, out-educate, and out-build the rest of the world. We have to make America the best place on Earth to do business. We need to take responsibility for our deficit and reform our government. That’s how our people will prosper. That’s how we’ll win the future—and tonight, I’d like to talk about how we get there.

The first step in winning the future is encouraging American innovation. None of us can predict with certainty what the next big industry will be or how we would build it. Thirty years ago, we couldn’t know that something called the Internet would lead to an economic revolution. What we can do—what America does better than anyone else—is to tap the creativity and imagination of our people. We are the nation that put cars in driveways and computers in offices, the home of Edison and the Wright brothers of Google and Facebook. In America, innovation doesn’t just change our lives. It is how we make our living.

Our free enterprise system is what drives innovation; but because it’s not always profitable for companies to invest in basic research, throughout our history, our government has provided cutting-edge scientists and inventors with the support that they need. That’s what planted the seeds for the Internet. That’s what helped make possible things like computer chips and GPS. Just the new jobs we’ve come from manufacturing to retail, that have come from these breakthroughs.

Half a century ago, when the Soviets beat us into space with the launch of a satellite called Sputnik, we had no idea how we would beat them to the Moon. The science wasn’t even there yet. NASA didn’t exist. But after investing in better reach and education, we didn’t just surpass the Soviets; we unleashed a wave of innovation that created new industries and millions of new jobs.

This is our generation’s Sputnik moment.

Two years ago, I said that we needed to reach a level of research and development that we haven’t seen since the height of the Space Race; and in a few weeks, I will be sending a budget to Congress that helps us meet that goal. We’ll invest in biomedical research, in renewable energy, in clean energy technology—an investment that will strengthen our security, protect our planet, and create countless new jobs for our people.

Already, we are seeing the promise of a new age.

As we begin the new year, I want to close this evening with a story that I heard in New Hampshire, when I was on the campaign trail. Allen are brothers who run a small Michigan roofing company. After September 11th, they volunteered their...
best roofers to help repair the Pentagon, but half of their factory went unused, and the recession hit them hard. Today, with the help of a government loan, that empty space is being used to manufacture solar shingles that are being sold all across the country. As Robert’s words, “We reinvented ourselves.”

That’s what Americans have done for over 200 years: reinvented ourselves. And to spur on more success stories like the Allen Brothers, we’ve begun to reinvent our policies so that we’re not just handing out money. We’re issuing a challenge. We’re telling America’s scientists and engineers that, if they assemble teams of the best minds in their fields and focus on the hardest problems in clean energy, we’ll fund the Apollo Projects of our time.

At the California Institute of Technology, they’re developing a way to turn sunlight and water into fuel for our cars. At Oak Ridge National Laboratory, they’re using supercomputers to get a lot more power out of our nuclear facilities. With more research and incentives, we can break our dependence on oil with biofuels and become the first country to have 1 million electric vehicles on the road by 2025.

We need to get behind this innovation; and to help pay for it, I’m asking Congress to eliminate the billions in taxpayer dollars we currently give to oil companies. I don’t know if you’ve noticed, but oil companies are doing just fine on their own. So, instead of subsidizing yesterday’s energy, let’s invest in tomorrow’s.

Now, clean energy breakthroughs will only translate into clean energy jobs if businesses know there will be a market for what they’re selling. So, tonight, I challenge you to join me in setting a new goal: By 2035, 80 percent of America’s electricity will come from clean energy sources. Some folks want wind, others want solar, and a few want nuclear, clean coal, and natural gas. To meet this goal, we will need them all, and I urge Democrats and Republicans to work together to make it happen.

Maintaining our leadership in research and technology is crucial to America’s success; but if we want to win the future, if we want innovation to produce jobs in America and not overseas, then we also have to win the race to educate our kids.

That responsibility begins not in our classrooms but in our homes and communities. It’s family that first instills the love of learning in a child. Only parents can make sure the TV is turned off and homework gets done. We need to teach our kids that it’s not just the winner of the Super Bowl who deserves to be celebrated but the winner of the science fair. We need to teach them that success is not a function of fame or PR but of hard work and discipline.

Our schools share this responsibility. When a child walks into a classroom, it should be a place of high expectations and love of learning, but too many schools don’t meet this test. That’s why, instead of just pouring money into a system that’s not working, we launched a competition called Race to the Top. To all 50 States, we said, “If you show us the most innovative plans to improve teacher quality and student achievement, we’ll show you the money.”

Race to the Top is the most meaningful reform of our public schools in a generation. A little less than 1 percent of what we spend on education each year, it has led over 40 States to raise their standards for teaching and learning. These standards were developed, by the way, not by Washington, but by Republican and Democratic governors throughout the country. Race to the Top should be the approach we follow this year as we replace No Child Left Behind with a law that is more flexible and focused on what’s best for our kids. Yes, it is possible for our children when reform isn’t just a top-down mandate but the work of local teachers and principals, school boards and communities.

Take a school like Bruce Randolph in Denver. Three years ago, it was rated one of the worst schools in Colorado, located on turf between two rival gangs; but last May, 97 percent of the seniors received their diplomas. Most will be the first in their families to go to college. And this past year of the school’s transformation, the principal who made it possible wiped away tears when a student said, “Thank you, Mrs. Waters, for showing . . . that we are smart and we can make it.”

That’s what good schools can do, and we want good schools all across the country.

Let’s also remember that, after parents, the biggest impact on a child’s success comes from the man or woman who sits across the table from him or her every day. In South Korea, teachers are known as “nation builders.” Here in America, it’s time we treated the people who educate our children with the same level of respect. We want to reward good teachers and stop making excuses for bad ones; and over the next 10 years, with so many Baby Boomers retiring from our classrooms, we want to prepare 100,000 new teachers in the fields of science, technology, engineering, and math.

In fact, every young person listening tonight who is contemplating their career choice: If you want to make a difference in the life of our Nation, if you want to make a difference in the life of a child, become a teacher. Your country needs you.

Of course, the education race doesn’t end with a high school diploma. To compete, higher education must be within the reach of every American. That’s why we’ve ended the unwaranted taxpayer subsidies that went to banks, and used the savings to make college affordable for millions of students—and this year, I ask Congress to go further and make permanent our tax cut for 4 years of college. It’s the right thing to do.

Because people need to be able to train for new jobs and careers in today’s fast-changing economy, we are also revitalizing America’s community colleges. Last month, I saw the promise of these schools at Forayth Tech in North Carolina. Many of the students there used to work in the surrounding factories that have now closed. One mother of two, a woman named Kathy Proctor, had worked in the furniture industry since she was 18 years old, and she told me she’s earning her degree in biotechnology now, at 55 years old, not just for the furniture jobs are gone, but because she wants to inspire her children to pursue their dreams, too. As Kathy said, “I hope it tells them to never give up.”

If we take these steps, if we raise expectations for every child and give them the best possible chance at an education from the day they are born until the last job they take, we will reach the goal that I set 2 years ago: By the end of the decade, America will once again have the highest proportion of college graduates in the world.

One last point about education. Today, there are hundreds of thousands of students excelling in our schools who are not American citizens. Some are the children of undocumented workers, who had nothing to do with the actions of their parents. They grew up as Americans and pledge allegiance to our flag. Yet, because of laws that were passed before their time, every day with the threat of deportation. Others come here from abroad to study in our colleges and universities, but as soon as they obtain advanced degrees, we send them back home to compete against us. It makes no sense.

Now, I strongly believe that we should take on, once and for all, the issue of illegal immigration, and I am prepared to work with Republicans and Democrats to protect our borders, enforce our laws, and welcome millions of undocumented workers who are now living in the shadows. I know that debate will be difficult. I know it will take time; but tonight, let’s agree to make that effort, and let’s stop expediency and start a new conversation, a conversation that I believe the American people, who could be staffing our research labs or starting a new business, who can be further enriching this Nation.

The third step in winning the future is rebuilding America. To attract new businesses to our shores, we need the fastest, most reliable ways to move people, goods, and information—from high-speed rail to high-speed Internet.
Our infrastructure used to be the best, but our lead has slipped. South Korean homes now have greater Internet access than we do. Countries in Europe and Russia invest more in their roads and railways than we do. China is building faster trains and new airports, and when our engineers graded our Nation’s infrastructure, they gave us a “D.”

We have to do better.

America is the nation that built the transcontinental railroad, the interstate highway system, and brought electricity to rural communities, constructed the Interstate Highway System. The jobs created by these projects didn’t just come from laying down tracks or pavement. They came from businesses that opened near a town’s new train station or the new off-ramp.

So, over the last 2 years, we have begun rebuilding for the 21st century a project that has meant thousands of good jobs for the hard-hit construction industry, and tonight, I am proposing that we double our efforts. We will put more Americans to work repairing crumbling roads and bridges. We will make sure this is fully paid for, attract private investment, and pick projects based on what’s best for the economy, not who’s got the most clout.

Within 25 years, our goal is to give 80 percent of Americans access to high-speed rail. This could allow you to go places in half the time it takes to travel by car. For some trips, it will be faster than flying—without the pat-down. As we speak, routes in California and the Midwest are already underway.

Within the next 5 years, we will make it possible for businesses to deploy the next generation of high-speed wireless coverage to 98 percent of all Americans. This isn’t just about faster Internet or fewer dropped calls. It’s about connecting every part of America to the digital age. It’s about a rural community in Iowa or Alabama where farmers and business owners will be able to sell their products all over the world. It’s about a firefighter who can download the design of a burning building onto a handheld device, a student who can take classes with a digital textbook, or a patient who can have face-to-face video chats with her doctor.

All these investments—in innovation, education, and infrastructure—will make America a better place to do business and create jobs; but to help our country compete, we also have to knock down barriers that stand in the way of their success.

For example, over the years, a parade of lobbyists has rigged the Tax Code to benefit particular companies and industries. This year, I asked accountants or lawyers to work the system can end up paying no taxes at all, but all the rest are hit with one of the highest corporate tax rates in the world. It makes no sense, and it has to change.

So, tonight, I am proposing that we start reducing the corporate tax rate for the first time in 25 years—without adding to our deficit. It can be done.

To help businesses sell more products abroad, we set a goal of doubling our exports by 2014, because the more we sell, the more we create here at home. Already, our exports are up. Recently, we signed agreements with India and China that will support more than 250,000 jobs here in the United States; and last month, we finalized a trade agreement with South Korea that will support at least 70,000 American jobs. This agreement has unprecedented support from business and labor, Democrats and Republicans—and I ask this Congress to pass it as soon as possible.

Now, before I took office, I made it clear that we would enforce our trade agreements and that I would only sign deals that keep faith with American workers and promote American jobs. That’s what we did with Korea, and that’s why I’m pursuing agreements with Panama and Colombia and continue our Asia Pacific and global trade talks.

To reduce barriers to growth and investment, I’ve ordered a review of government regulations that put an unnecessary burden on businesses, we will fix them, but I will not hesitate to create or enforce commonsense safeguards to protect the American people. That’s what we’ve done throughout this century. It’s why our food is safe to eat, our water is safe to drink, and our air is safe to breathe. It’s why we have speed limits and child labor laws. It’s why, last year, we put in place consumer protections against hidden fees and penalties by credit card companies and new rules to prevent another financial crisis, and it’s why we passed reform that finally prevents the health insurance industry from exploiting patients.

Now, I have heard rumors that a few of you still have concerns about our new health care law, so let me be the first to say that anything can be improved. If you have ideas about how to improve this law by making care better or more affordable, I am eager to work with you. We can start right now by correcting a flaw in the legislation that has placed an unnecessary bookkeeping burden on small businesses.

What I’m proposing is to go back to the days when insurance companies could deny someone coverage because of a preexisting condition. I’m not willing to tell James Howard, a brain cancer patient from Texas, that his treatment might not be covered. I’m not willing to tell Jim Houser, a small business man from Oregon, that he has to go back to paying $5,000 more to cover his employees. As we speak, this law is making prescription drugs cheaper for seniors, and is giving uninsured students a chance to stay on their parents’ coverage.

So I say to this Chamber tonight, instead of re-fighting the battles of the last 2 years, let’s fix what needs fixing, and let’s move forward.

Now, the final, critical step in winning the future is to make sure we aren’t buried under a mountain of debt. We are living with a legacy of deficit spending that began almost a decade ago; and in the wake of the financial crisis, some of that was necessary to keep credit flowing, save jobs, and put money in people’s pockets.

But now that the worst of the recession is over, we have to confront the fact that our Government spends more than it takes in. That is not sustainable. Every day, families sacrifice to live within their means. They deserve a government that does the same.

So, tonight, I am proposing that starting this year we freeze annual domestic spending for the next 5 years. Now, this would reduce the deficit by more than $400 billion over the next decade, and will bring discretionary spending to the lowest share of our budget since Dwight Eisenhower was President.

This freeze will require painful cuts. Already, we have frozen the salaries of hardworking Federal employees for the next 2 years. I’ve proposed cuts to the billions in wasteful grants and community action programs. The Secretary of Defense has also agreed to cut tens of billions of dollars in spending that he and his generals believe our military can do without.

I believe that the proposals in this Chamber have already proposed deeper cuts, and I’m willing to eliminate whatever we can honestly afford to do without, but let’s make sure that we’re not doing it on the backs of our most vulnerable citizens, and let’s make sure that what we’re cutting is really excess weight. Cutting the deficit by gutting our investments in innovation and education is like lightening an overloaded airplane by removing its engine. It may feel like you’re flying high at first, but it won’t take long before you feel the impact.

Now, most of the cuts and savings I’ve proposed only address annual domestic spending, which represents a little more than 12 percent of our budget. To make further progress, we have to stop pretending that cutting this kind of spending alone will be enough. It won’t.

The bipartisan Fiscal Commission I created last year made this crystal clear. I don’t agree with all their proposals, but they made important progress; and their conclusion is that the only way to tackle our deficit is to cut excessive spending wherever we find it—in domestic spending, defense spending, health care spending, and spending through tax breaks and loopholes.

This means further reducing health care costs, including programs like Medicare and Medicaid, which are the single biggest contributor to our long-term deficit. The health insurance law we passed last year will slow these rising costs, which is part of the reason
that nonpartisan economists have said that repealing the health care law would add a quarter of a trillion dollars to our deficit. Still, I’m willing to look at other ideas to bring down costs, including one that Republicans suggested last year: medical malpractice reform to rein in frivolous lawsuits.

To put us on solid ground, we should also find a bipartisan solution to strengthen Social Security for future generations, and we must do it without putting at risk current retirees—the most senior people with disabilities, without slashing benefits for future generations and without subjecting Americans’ guaranteed retirement income to the whims of the stock market.

And if we truly care about our deficit, we simply can’t afford a permanent extension of the tax cuts for the wealthiest 2 percent of Americans. Before we take money away from our schools or scholarships away from our students, we should ask millionaires to give up their tax break. It’s not a matter of punishing their success. It’s about promoting America’s success.

In fact, the best thing we could do on taxes for all Americans is to simplify the tax code. This will be a tough job, but Members of both parties have expressed an interest in doing this, and I am prepared to join them.

So now is the time to act. Now is the time for both sides and both Houses of Congress—Democrats and Republicans—to forge a principled compromise that gets the job done. If we make the hard choices now to rein in our deficits, we can make the investments we need to win the future.

Let me take this one step further. We shouldn’t just give our people a government that’s more affordable. We should give them a government that’s more competent and more efficient. We need a government that’s more competent and more efficient. We can’t win the future with a government that’s inefficient. We can’t win the future with a government that’s inefficient.

In the coming months, my administration will develop a proposal to merge, consolidate, and reorganize the Federal Government in a way that best serves the goal of a more competitive America. I will submit that proposal to Congress for a vote, and we will push to get it passed.

In the coming year, we will also work to rebuild people’s faith in the institution of government. Because you deserve to know when your elected officials are meeting with lobbyists and Congress to do is what the White House has already done: put that information online. And because the American people deserve to know that special interests aren’t larding up legislation with pet projects, both parties in Congress should know this: if a bill comes to my desk with earmarks inside, I will veto it. I will veto it.

A 21st century government that’s open and competent. A government that lives within its means. An economic system that creates high-quality jobs and small businesses and new ideas. Our success in this new and changing world will require reform, responsibility, and innovation. It will also require us to approach that world with a new level of engagement in our foreign policy and our alliances.

Just as jobs and businesses can now race across borders, so can new threats and new challenges. No single wall separates East and West. No one rival superpower is aligned against us, and so our enemies are where they are and build coalitions that cut across lines of region and race and religion, and America’s moral example must always shine for all who yearn for freedom and justice and dignity; and because we’ve begun this work, tonight we can say that American leadership has been renewed, and America’s standing has been restored.

Look to Iraq, where nearly 100,000 of our brave men and women have left and combat patrols have ended; violence is down; and a new government has been formed. This year, our civilians will for a lasting partnership with the Iraqi people while we finish the job of bringing our troops out of Iraq, America’s commitment has been kept. The Iraq war is coming to an end.

Of course, as we speak, al Qaeda and their affiliates continue to plan attacks against us. Thanks to our intelligence and enforcement professionals, we are disrupting plots and securing our cities and skies; and as extremists try to inspire acts of violence within our borders, we are responding with the strength of our communities, with respect for the rule of law, and with the conviction that American Muslims are a part of our American family.

We also have taken the fight to al Qaeda and their allies abroad. In Afghanistan, our troops have taken a hard-fought victory against Taliban strongholds and trained Afghan Security Forces. Our purpose is clear: by preventing the Taliban from reestablishing a stranglehold over the Afghan people, we will deny al Qaeda the safe-haven that served as a launching pad for 9/11.

Thanks to our heroic troops and civilians, fewer Afghans are under the control of the insurgency. This work will be tough ahead, and the Afghan Government will need to deliver better governance, but we are strengthening the capacity of the Afghan people and building an enduring partnership with them. This year, we will work with nearly 50 countries to begin a transition to an Afghan lead, and this July, we will begin to bring our troops home.

In Pakistan, al Qaeda’s leadership is under more pressure than at any point since 2001. Their leaders and operatives are being removed from the battlefield. Their safe-havens are shrinking, and we sent a message from the Afghan border to the Arabian Peninsula to all parts of the globe: We will not relent, we will not waver, and we will defeat you.

American leadership can also be seen in the effort to secure the worst weapons of war. Because Republicans and Democrats approved the New START treaty, far fewer nuclear weapons and launchers will be deployed. Because we rallied the world, nuclear materials are being locked down on every continent so they never fall into the hands of terrorists.

Because of a diplomatic effort to insist that Iran meet its obligations, the Iranian Government now faces tougher sanctions, tighter sanctions, than ever before; and on the Korean Peninsula, we stand with our ally South Korea and insist that North Korea keeps its commitment to abandon nuclear weapons.

This is just a part of how we are shaping a world that favors peace and prosperity.

With our European allies, we revitalized NATO and increased our cooperation on everything from counterterrorism to missile defense. We have reset our relationship with Russia, strengthened Asian alliances, and built new partnerships with nations like India. This March, I will travel to Brazil, Chile, and El Salvador to forge new alliances across the Americas.

Around the globe, we are standing with those who take responsibility, helping farmers grow more food, supporting doctors who care for the sick, and combating the corruption that can rot a society and rob people of opportunity.

Recent events have shown us that what sets us apart must not just be our power—it must also be the purpose behind it.

In South Sudan, with our assistance, the people were finally able to vote for independence after years of war. Thousands lined up before dawn. People danced in the streets. One man who lost four of his brothers at war summed up the scene around him. “This was a battlefield for most of my life,” he said. “Now we want to be free.”
We saw that same desire to be free in Tunisia, where the will of the people proved more powerful than the writ of a dictator. And tonight, let us be clear: The United States of America stands with the people of Tunisia, and supports the democratic aspirations of all people.

We must never forget that the things we've struggled for and fought for live in the hearts of people everywhere, and we must always remember that the American dream is the burden in this struggle are the men and women who serve our country.

Tonight, let us speak with one voice in reaffirming that our Nation is united in support of our troops and their families. Let us serve them as well as they have served us—by giving them the equipment they need, by providing them with the care and benefits that they have earned, and by enlisting our voices in the great task of building our own Nation.

Our troops come from every corner of this country. They're black, white, Latino, Asian, Native American, They are Christian and Hindu, Jewish and Muslim. We know that some of them are gay. Starting this year, no American will be forbidden from serving the country they love because of who they love. And with that change, I call on all of our college campuses to open their doors to our military recruiters and the ROTC. It is time to leave behind the divisive battles of the past. It is time to move forward as one Nation.

We should have no illusions about the work ahead of us. Reforming our schools, changing the way we use energy, reducing our deficit—none of this will be easy. All of it will take time, and it will be harder because we will argue about everything—the cost, the details, the letter of every law.

Of course, some countries don't have this problem. If the central government wants a railroad, they build a railroad no matter how many homes get bulldozed. If they don't want a bad story in the newspaper, it doesn't get written. And yet, as contentious and frustrating and messy as our democracy can sometimes be, I know there isn't a person here who would trade places with any other nation on Earth.

We may have differences in policy, but we all believe in the rights enshrined in our Constitution. We may have differences, but we believe in the same promise that says this is a place where you can make it if you try. We may have different backgrounds, but we believe in the same dream that says this is a country where anything is possible. I know hear who you are, no matter where you come from.

That dream is why I can stand here before you tonight. That dream is why a working class kid from Scranton can sit behind me. That dream is why someone who began by sweeping the floors of his father's Cincinnati bar can preside as Speaker of the House in the greatest nation on Earth.

That dream—that American dream—is what drove the Allen Brothers to reinvent their roofing company for a new era. It's what drove those students at Forsyth Tech to learn a new skill and work towards the future, and that dream is not the small business owner named Brandon Fisher.

Brandon started a company in Berlin, Pennsylvania, that specializes in a new kind of drilling technology; and one day last summer, he saw the news that halfway across the world, 33 men were trapped in a Chilean mine, and no one knew how to save them; but Brandon thought his company could help, and so he designed a rescue that would come to be known as Plan B. His employees worked around the clock to manufacture the necessary drilling equipment, and Brandon left for Chile.

Along with others, he began drilling a 2,000-foot hole into the ground; working 3 or 4 days at a time without any sleep. Thirty-seven days later, Plan B succeeded, and the miners were rescued. But because he didn't want all the attention, Brandon wasn't there for the celebration. He had already gone back home, back to work on his next project. Later, one of his employees said of the rescue, "We proved that Center Rock is a little company, but we do big things."

From the earliest days of our founding, America has been the story of ordinary people who dare to dream. That's how we win the future. We are a nation that argues. 'I might not have a lot of money, but I have this great idea for a new company. I might not come from a family of college graduates, but I will be the first to get my degree. I might not know those people in trouble, but I think I can help them, and I need to try. I'm not sure how we'll reach that better place beyond the horizon, but I know we'll get there.

We know well.

We do big things.

The idea of America endures. Our destiny remains our choice. And tonight, more than two centuries later, it is because of our people that our future is hopeful, our journey goes forward, and the state of our Union is strong.

Thank you, God bless you, and may God bless the United States of America.

(Applause, the Members rising.)

At 10 o'clock and 16 minutes p.m., the President of the United States, accompanied by the committee of escort, retired from the Hall of the House of Representatives.

The Deputy Sergeant at Arms escorted the invited guests from the Chamber in the following order:

The members of the President's Cabinet; the Chief Justice of the United States and the Associate Justices of the Supreme Court; the Dean of the Diplomatic Corps.

J O I N T S E S S I O N D I S S O L V E D

The SPEAKER. The Chair declares the joint session of the two Houses now dissolved.

Accordingly, at 10 o'clock and 20 minutes p.m., the joint session of the two Houses was dissolved. The Members of the Senate retired to their Chamber.


Mr. CANTOR. Mr. Speaker, I move that the message of the President be referred to the Committee of the Whole House on the State of the Union and ordered printed.

The motion was agreed to.

LEAVE O F A B S E N C E

By unanimous consent, leave of absence was granted to:

Mr. DUNCAN of South Carolina (at the request of Mr. CANTOR) for January 24 on account of airline mechanical failure.

A D J O U R N M E N T

Mr. CANTOR. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 21 minutes p.m.), the House adjourned until tomorrow, Wednesday, January 26, 2010, at 10 a.m.

O F F I C E O F C O M P L I A N C E N O T I C E


OFFICE OF COMPLIANCE,
Washington, DC, January 24, 2011.

Hon. John A. Boehner,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: On March 21, 2008, the Board of Directors of the Office of Compliance adopted and submitted for publication in the Congressional Record, final regulations implementing section 402(c)(3) of the Veterans Employment Opportunities Act of 1998 which extends to the Congress certain rights, protections, and responsibilities under section 2108, 3309 through 3312, and subchapter I of chapter 35 of title 5, United States Code. On December 10, 2010, the Senate agreed both to S. Res. 700 to provide for the approval of final regulations that are applicable to the employing offices and covered employees of the Senate, and to S. Con. Res. 77 to provide for the approval of final regulations that are applicable to the instrumentalities of the Congress, i.e., the employing offices and employees other than those offices and employees of the House and the Senate. Both S. Res. 700 and S. Con. Res. 77 included technical corrections to the regulations. On December 15, 2010, the House agreed to H. Res. 1775 to provide for the approval of the final regulations that are applicable to the employing offices and covered employees of the House. H. Res. 1775 also included technical corrections. On December 22, 2010, the House agreed to H. Res. 1783 amending the technical corrections of H. Res. 1775 and the Senate amendment to S. Res. 705 amending the technical corrections of S. Res. 700.
Together with the Senate’s approval of Res. 700, S. Res. 705, and S. Con. Res. 77, the House’s concurrence in S. Con. Res. 77 and its approval of H. Res. 1737 and H. Res. 1783 consist with the Veterans Employment Opportunities Act of 1998 (VEOA) and its amendments. The purpose of the VEOA (and of the Veterans Employment Opportunities Act of 1998) is to ensure that the principles and purposes of the VEOA are integrated into the existing employment and retention policies and processes of those employing offices with employees covered by the VEOA. These regulations will have the prefix “C.”

Pursuant to paragraph (3) of section 309(d) of the VEOA, the Board submits this transmittal to both employing offices and covered employees of the House of Representatives and the Senate. The regulations will have the prefix “C.” Therefore, the regulations will go into effect 60 days from the date on which they are published in the Congressional Record following this transmittal from the Board of Directors of the Office of Compliance.

Respectfully submitted,

BARRA L. CAMENS
Chair of the Board of Directors of the Office of Compliance.

Enclosure.

TEXT OF REGULATIONS FOR THE VETERANS EMPLOYMENT OPPORTUNITIES ACT (VEOA) MODIFIED TO BE APPLICABLE TO COVERED EMPLOYING OFFICES AND COVERED EMPLOYEES

Sec. 1.101 Purpose and scope.

(a) “Accredited physician” means a doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor resides. The phrase “medical practice by the State” as used in this section means that the provider must be authorized to diagnose and treat physical or mental health conditions through the practice of medicine or osteopathy by a doctor or other health care provider.


(c) “Active duty” or “active military duty” means full-time duty, including duty that an employing office takes with regard to an existing employee of the employing office.

(d) “Appointment” means an individual’s appointment to employment in a covered position, but does not include any personal action that an employing office takes with regard to an existing employee of the employing office.

(e) “Board” means the Board of Directors of the Office of Compliance.

(f) “Board” means the Board of Directors of the Office of Compliance.

(g) “Covered employee” means any employee of (1) the House of Representatives; (2) the Senate; (3) the Office of Congressional Accessibility Services; (4) the Capitol Police; (5) the Congressional Budget Office; (6) the Office of the Architect of the Capitol; (7) the Office of the Attending Physician; or (8) the Office of Compliance, but does not include any employee (aa) whose appointment is made by the President with the advice and consent of the Senate; (bb) whose appointment is made by a Member of Congress; (cc) whose appointment is made by a committee or subcommittee of either House of Congress or a joint committee of the House of Representatives and the Senate; (dd) who is appointed pursuant to section 105(a) of the Second Supplemental Appropriations Act, 1976; or (ee) who is appointed pursuant to section 105(a) of the Second Supplemental Appropriations Act, 1979, or who is appointed pursuant to section 105(a) of the Second Supplemental Appropriations Act, 1980, or who is appointed by the President with the advice and consent of the Senate; or (ff) who is appointed by the President with the advice and consent of the Senate.

(h) “Covered employee” means an employee: (1) whose appointment is made by the President with the advice and consent of the Senate; (2) whose appointment is made by a Member of Congress; (3) whose appointment is made by a committee or subcommittee of either House of Congress or a joint committee of the House of Representatives and the Senate; or (4) who is appointed pursuant to section 105(a) of the Second Supplemental Appropriations Act, 1976, or (ee) who is appointed pursuant to section 105(a) of the Second Supplemental Appropriations Act, 1979, or who is appointed pursuant to section 105(a) of the Second Supplemental Appropriations Act, 1980, or who is appointed by the President with the advice and consent of the Senate; or (ff) who is appointed by the President with the advice and consent of the Senate.

(i) “Covered employee” means any employee of (1) the House of Representatives; (2) the Senate; (3) the Office of Congressional Accessibility Services; (4) the Capitol Police; (5) the Congressional Budget Office; (6) the Office of the Architect of the Capitol; (7) the Office of the Attending Physician; or (8) the Office of Compliance, but does not include any employee (aa) whose appointment is made by the President with the advice and consent of the Senate; (bb) whose appointment is made by a Member of Congress; (cc) whose appointment is made by a committee or subcommittee of either House of Congress or a joint committee of the House of Representatives and the Senate; or (dd) the Board of Directors of the Office of Compliance.

Subpart A—Matters of General Applicability to All Regulations Promulgated under Section 4 of the VEOA

Sec. 1.102 Definitions.

Sec. 1.103 Adoption of regulations.

Sec. 1.104 Coordination with section 225 of the Congressional Accountability Act.
by the Secretary of the Senate, but not any such individual employed by any entity listed in paragraph (g) above nor any individual described in subparagraphs (aa) through (ee) of paragraphs (g) section 1.102 of the regulations classified with an ‘‘E’’ classification.

C Regs: (m) Employee of the Senate includes any employee whose pay is disbursed by the Clerk of the House of Representatives or by any entity listed in paragraph (g) section 1.102 of the regulations classified with an ‘‘E’’ classification.

H Regs: (n) ‘‘Employing office’’ means: (1) the personal office of a Member of the House of Representatives or a joint committee of the House of Representatives; (2) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of any employee of the House of Representatives or the Senate;

S Regs: (n) ‘‘Employing office’’ means: (1) the personal office of a Senator; (2) a committee of the Senate or a joint committee of the Senate and the House of Representatives; or (3) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of any employee of the House of Representatives or the Senate.

C Regs: (n) ‘‘Employing office’’ means: (1) the Office of Congressional Accessibility Services, the Capitol Police, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of Compliance, the Senate;

(n) ‘‘Other official designated by the President’’ means another official designated by the President whose pay is disbursed by the Senate, or any employee in an entity that is paid with funds derived from the Senate’s budget that is not under the authority of the Senate or any official designated by the House of Representatives, or any employee in an entity that is paid with funds derived from the House’s budget that is not under the authority of the House of Representatives.

O Regs: (o) ‘‘Office’’ means the Office of Compliance.

(p) ‘‘Preference eligible’’ means veterans, spouses, widows, widowers or mothers who meet the definition of ‘‘preference eligible’’ in 5 U.S.C. § 2108(3)(A)–(G).

(q) ‘‘Qualified applicant’’ means an applicant for a covered position whom any employing office deems to satisfy the requisite minimum job-related requirements of the position.

(r) ‘‘Separated under honorable conditions’’ means either an honorable or a general discharge under circumstances in which the Department of Defense is responsible for administering and defining military discharges.

(s) ‘‘Uniformed services’’ means the armed forces, the commissioned corps of the Public Health Service, and the commissioned corps of the National Oceanic and Atmospheric Administration.


(2) Any entity that is not designated by the Board concludes that it must promulgate its own implementing regulations because the Senate’s budget or the Senate’s workload. As a result, the Board concludes that it must promulgate its own implementing regulations because the Senate’s budget or the Senate’s workload.

SEC. 1.102. PROCEDURES FOR BRINGING CLAIMS UNDER THE VEOA.

SEC. 1.103. ADOPTION OF REGULATIONS.

(a) Adoption of regulations Section 4(c)(4)(A) of the VEOA generally authorizes the Board to issue regulations to implement section 4(c). In addition, section 4(c)(4)(B) of the VEOA directs the Board to promulgate regulations that are ‘‘the same as the most substantive regulations applicable to the Executive branch’’ and sets forth direction that, with the exception of the regulations adopted and set forth herein, there are no other ‘‘substantive regulations applicable to the Executive branch’’ that the Board concludes that it must promulgate its own implementing regulations because the Senate’s budget or the Senate’s workload.

(b) Modification of substantive regulations As a qualification to the statutory obligation to issue regulations that are ‘‘the same as the most substantive regulations applicable to the Executive branch’’, section 4(c)(4)(B) of the VEOA authorizes the Board to ‘‘determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under section 4(c) of the VEOA’’.

(c) Rationale for Departure from the Most Relevant Executive Branch Regulations. The Board concludes that it must promulgate its own implementing regulations because the Senate’s budget or the Senate’s workload. As a result, the Board concludes that it must promulgate its own implementing regulations because the Senate’s budget or the Senate’s workload.

Therefore, to follow the OPM regulations and subchapter I of chapter 35, of title 5, United States Code. The regulations issued by the Board herein are on all matters for which section 4(c)(4)(B) of the VEOA requires a regulation to be issued. Specifically, it is the Board’s considered judgment based on the information available to it at the time of promulgation of the regulations referred to in paragraph (2) of section 4(c) of the VEOA that need be adopted by the Board as substantive regulations.

As a qualification to the statutory obligation to issue regulations that are ‘‘the same as the most substantive regulations applicable to the Executive branch’’ and not any individual described in subparagraphs (aa) through (ee) of paragraphs (g) section 1.102 of the regulations classified with an ‘‘E’’ classification.

S Regs: (m) Employee of the Senate includes any employee whose pay is disbursed by the Clerk of the House of Representatives or by any entity listed in paragraph (g) section 1.102 of the regulations classified with an ‘‘E’’ classification.

Therefore, to follow the OPM regulations and subchapter I of chapter 35, of title 5, United States Code. The regulations issued by the Board herein are on all matters for which section 4(c)(4)(B) of the VEOA requires a regulation to be issued. Specifically, it is the Board’s considered judgment based on the information available to it at the time of promulgation of the regulations referred to in paragraph (2) of section 4(c) of the VEOA that need be adopted by the Board as substantive regulations. As a qualification to the statutory obligation to issue regulations that are ‘‘the same as the most substantive regulations applicable to the Executive branch’’; section 4(c)(4)(B) of the VEOA authorizes the Board to ‘‘determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under section 4(c) of the VEOA’’.

(d) Rationale for Departure from the Most Relevant Executive Branch Regulations. The Board concludes that it must promulgate its own implementing regulations because the Senate’s budget or the Senate’s workload. As a result, the Board concludes that it must promulgate its own implementing regulations because the Senate’s budget or the Senate’s workload.

Therefore, to follow the OPM regulations and subchapter I of chapter 35, of title 5, United States Code. The regulations issued by the Board herein are on all matters for which section 4(c)(4)(B) of the VEOA requires a regulation to be issued. Specifically, it is the Board’s considered judgment based on the information available to it at the time of promulgation of the regulations referred to in paragraph (2) of section 4(c) of the VEOA that need be adopted by the Board as substantive regulations. As a qualification to the statutory obligation to issue regulations that are ‘‘the same as the most substantive regulations applicable to the Executive branch’’; section 4(c)(4)(B) of the VEOA authorizes the Board to ‘‘determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under section 4(c) of the VEOA’’.

SEC. 1.104. COORDINATION WITH SECTION 225 OF THE CONGRESSIONAL ACCOUNTABILITY ACT.

Statutory directive. Section 4(c)(4)(C) of the VEOA requires that promulgated regulations must be consistent with section 225 of the CAA. Among other things, section 225 of the CAA requires that promulgated regulations accommodating the human resources of Congress and the legislative branch.

Therefore, to follow the OPM regulations and subchapter I of chapter 35, of title 5, United States Code. The regulations issued by the Board herein are on all matters for which section 4(c)(4)(B) of the VEOA requires a regulation to be issued. Specifically, it is the Board’s considered judgment based on the information available to it at the time of promulgation of the regulations referred to in paragraph (2) of section 4(c) of the VEOA that need be adopted by the Board as substantive regulations. As a qualification to the statutory obligation to issue regulations that are ‘‘the same as the most substantive regulations applicable to the Executive branch’’; section 4(c)(4)(B) of the VEOA authorizes the Board to ‘‘determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under section 4(c) of the VEOA’’.

Subpart B—Veterans’ Preference—General Provisions

Sec. 1.105. Responsibility for Administration of Veterans’ Preference

1.106 Procedures for bringing claims under the VEOA.

Applicants for appointment to a covered position and covered employees may contest
adverse veterans' preference determinations, including any determination that a preference eligible applicant is not a qualified applicant, pursuant to sections 401–406 of the CAA, 2 U.S.C. § 1401–1406, and provision of law referred to therein; 206(a)(3) of the CAA, 2 U.S.C. §§ 1401, 4(c)(3) of the Veterans Employment Opportunities Act of 1998; and the applicable Federal Rules of Appellate Procedure.

Subpart C—Veterans' Preference in Appointments

Sec. 1.107 Veterans' preference in appointments to covered positions.

1.108 Veterans' preference in appointments to non-restricted covered positions.

1.109 Crediting experience in appointments to covered positions.

1.110 Waiver of physical requirements in appointments to covered positions.

SEC. 1.107. VETERANS’ PREFERENCE IN APPOINTMENTS TO RESTRICTED POSITIONS.

In each appointment action for the positions of custodian, elevator operator, guard, and messenger (as defined below and collectively referred to in these regulations as restricted covered positions) employing offices shall give due consideration to preference eligible applicants as long as qualified preference eligible applicants are available. The provisions of sections 1.109 and 1.110 below shall apply in appointments to preference eligible applicants to a restricted covered position. The provisions of section 1.108 shall apply to the appointment of a preference eligible applicant to a restricted covered position, in the event that there is more than one preference eligible applicant for the position.

Custodian—One whose primary duty is the performance of cleaning or other ordinary routine maintenance duties in or about a government building or a building under Federal control, park, monument, or other Federal reservation.

Elevator operator—One whose primary duty is the running of freight or passenger elevators. The work includes opening and closing elevator gates and doors, working elevator controls, loading and unloading the elevator, giving information and directions to passengers, and reporting problems in running the elevator.

Guard—One whose primary duty is the assignment to a station, beat, or patrol area in a Federal building or a building under Federal control to prevent illegal entry of persons or property; make observations for detection of fire, trespass, unauthorized removal of public property or hazards to Federal personnel or property; and reporting problems in running the elevator.

Messenger—One whose primary duty is the supervision or performance of general messenger work (such as running errands, delivering messages, and answering calls).

SEC. 1.108. VETERANS’ PREFERENCE IN APPOINTMENTS TO NON-RESTRICTED COVER-ED POSITIONS.

(a) Where an employing office has duly adopted a policy requiring the numerical scoring or rating of applicants for covered positions, the employing office shall add points to the earned ratings of those preference eligible applicants who receive passing scores in an entrance examination, in a manner that reasonably is proportionately comparable to the points prescribed in 5 U.S.C. § 3309. For example, five preference points shall be granted to preference eligible applicants in a 100-point system, one point shall be granted in a 20-point system, and so on.

(b) In all other situations involving application for a covered position, employing offices shall consider veterans’ preference eligibility as an affirmative factor in the employment office’s determination of who will be appointed from among qualified applicants.

(c) Nothing in this section shall relieve an employing office of any obligations it may have pursuant to the Americans with Disabilities Act of 1990 (42 U.S.C. §§12101 et seq.) as applied by section 102(a)(3) of the Act, 2 U.S.C. § 1302(a)(3).

Subpart D—Veterans’ preference in reductions in force

Sec. 1.111 Definitions applicable in reductions in force.

1.112 Application of preference in reductions in force.

1.113 Crediting experience in reductions in force.

1.114 Waiver of physical requirements in reductions in force.

1.115 Transfer of functions.

SEC. 1.111. DEFINITIONS APPLICABLE IN REDUCITIONS IN FORCE.

(a) Competing covered employees are the covered employees within a particular position or job classification, at or within a particular competitive area, as defined below.

(b) Competitive area is that portion of the employing office, in which covered employees compete for reten-

(c) Competitive area is that portion of the employing office, in which covered employees compete for reten-

(d) Preference Eligibilities. For the purpose of applying veterans’ preference in reductions in force, except with respect to the applica-

(e) “Active service” means the following:

(f) “Retired employee” means the following:

(g) “Retired employee” means the following:

(h) “Retired employee” means the following:

(i) “Retired employee” means the following:

(j) “Retired employee” means the following:
applies and thereafter he/she continued to be so employed without a break in service of more than 30 days.

The definition of "preference eligible" as set forth in 5 U.S.C. 2108 and section 1.102(p) of these regulations shall apply to waivers of physical requirements in determining an employee for retention under section 1.116 of these regulations.

H&S Regs: (e) Reduction in force is any termination of a covered employee's employment or the reduction in pay and/or position grade of a covered employee for more than 30 days and that may be required for budgetary or workload reasons, changes resulting from reorganization and to make room for an employee with reemployment or restoration rights. The term "reduction in force" does not encompass a termination or other personnel action: (1) predicated upon performance, conduct or other grounds attributable to an employee, or (2) involving an employee who is employed by the employing office on a temporary basis, or (3) attributable to a change in party leadership or majority party status within the House of Congress where the employee is employed.

C Reg: (e) Reduction in force is any termination of a covered employee's employment or the reduction in pay and/or position grade of a covered employee for more than 30 days and that may be required for budgetary or workload reasons, changes resulting from reorganization, or the need to make room for an employee with reemployment or restoration rights. The term "reduction in force" does not encompass a termination or other personnel action: (1) predicated upon performance, conduct or other grounds attributable to an employee, or (2) involving an employee who is employed by the employing office on a temporary basis.

(f) Undue interruption is a degree of interruption that would prevent the completion of required work by a covered employee 90 days after the employee has been placed in a different position under this part. The 90-day standard should be considered within the allowable limits of time and quality, taking into account the pressures of priorities, deadlines, and other demands. However, work generally would not be considered to be unduly interrupted if a covered employee needs more than 90 days after the reduction in force to perform the optimum quality of work. The 90-day standard may be extended if placement is made under this part in a covered employee's current position or in a different position that the employee would be considered qualified for before the reduction in force.

SEC. 1.112. APPLICATION OF PREFERENCE IN REDUCTIONS IN FORCE.

Prior to any reduction in force that will affect covered employees, employing offices shall determine which, if any, covered employees within a particular group of competing covered employees are entitled to veterans' preference eligibility status in accordance with these regulations. In determining which covered employees will be retained, the employing office will treat preference as the controlling factor in retention decisions among such competing covered employees, regardless of length of service or performance, provided that the preference eligible employee's performance has not been determined to be unacceptable. Provided, a preference eligible employee who is a "unified employee" under section 1.102(i) above who has a compensable service-connected disability of 30 percent or more and whose performance has not been determined to be unacceptable is entitled to be retained in preference to other preference eligible employees. Provided, this section does not relieve an employing office of any requirement to notify a person in writing pursuant to the Worker Adjustment, and Retraining Notice Act (29 U.S.C. §2101 et seq.) as applied by section 102(a)(9) of the CAA. 2 U.S.C. §1302(a)(9).

SEC. 1.113. CREDITING EXPERIENCE IN REDUCTIONS IN FORCE.

In computing credit for service in connection with a reduction in force, the employing office shall provide credit to preference eligible covered employees as follows:

(a) a preference eligible covered employee who is not a retired member of a uniformed service is entitled to credit for the total length of time in active service in the armed forces if he is included under 5 U.S.C. §3503(a)(3)(A), (B), or (C); and

(b) a preference eligible covered employee who is a retired member of a uniformed service is entitled to credit for:

(1) the length of time in active service in the armed forces during a war, or in a campaign or expedition for which a campaign badge has been authorized; or

(2) the total length of time in active service in the armed forces if he is included under 5 U.S.C. §3503(a)(3)(A), (B), or (C); and

(c) a preference eligible covered employee is entitled to credit for:

(1) service rendered as an employee of a county committee established pursuant to section 8(b) of the Soil Conservation and Agricultural Act of 1933, as amended, or of a particular organization of producers described in section 10(b) of the Agricultural Adjustment Act, reenacted with amendments by the Agricultural Marketing Agreement Act of 1937; and

(2) service rendered as an employee described in 5 U.S.C. §2105(c) if such employee moves or has moved, on or after January 1, 1966, without a break in service of more than 3 days, from a position in a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard to a position in the Department of Defense or the Coast Guard, respectively, that is not described in 5 U.S.C. §2105(c).

SEC. 1.114. WAIVER OF PHYSICAL REQUIREMENTS IN REductions IN Forces.

(a) If an employing office determines, on the basis of evidence before it, that a covered employee is preference eligible, the employing office shall waive, in determining the covered employee's retention status in a reduction in force:

(1) requirements as to age, height, and weight, unless the requirement is essential to the performance of the duties of the position; and

(2) physical requirements if, in the opinion of the employing office, on the basis of evidence before it, that a covered employee is entitled to be retained in preference to other preference eligible covered employees as follows:

(b) a preference eligible covered employee who is a retired member of a uniformed service is entitled to credit for:

(1) the length of time in active service in the armed forces during a war, or in a campaign or expedition for which a campaign badge has been authorized; or

(2) the total length of time in active service in the armed forces if he is included under 5 U.S.C. §3503(a)(3)(A), (B), or (C); and

(c) a preference eligible covered employee is entitled to credit for:

(1) service rendered as an employee of a county committee established pursuant to section 8(b) of the Soil Conservation and Agricultural Act of 1933, as amended, or of a particular organization of producers described in section 10(b) of the Agricultural Adjustment Act, reenacted with amendments by the Agricultural Marketing Agreement Act of 1937; and

(2) service rendered as an employee described in 5 U.S.C. §2105(c) if such employee moves or has moved, on or after January 1, 1966, without a break in service of more than 3 days, from a position in a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard to a position in the Department of Defense or the Coast Guard, respectively, that is not described in 5 U.S.C. §2105(c).

SEC. 1.115. TRANSFER OF FUNCTIONS.

(a) When a function is transferred from one employing office to another employing office, each covered employee in the affected position classifications or job classifications is entitled to credit for the total period of time in active service in the armed forces if he is included under 5 U.S.C. §3503(a)(3)(A), (B), or (C); and

(b) When one employing office is replaced by another employing office, each covered employee in the affected position classifications or job classifications in the employing office to be replaced shall be transferred to the replacing employing office for employment in a covered position for which he/she is qualified before the receiving employing office may make an appointment from another source to that position.

Subpart E—Adoption of veterans' preference policies, recordkeeping & informational requirements.

Sec. 1.116 Adoption of veterans' preference policy.

1.117 Preservation of records made or kept.

1.118 Dissemination of veterans' preference policies to applicants for covered positions.

1.119 Information regarding veterans' preference determinations in appointments.

1.120 Dissemination of veterans' preference policies to covered employees.

1.121 Written notice prior to a reduction in force.

Sec. 1.116. ADOPTION OF VETERANS’ PREFERENCE POLICY.

No later than 120 calendar days following Congressional approval of this regulation, each employing office that employs one or more covered employees or that seeks applicants for or fills vacant positions by accepting applications shall adopt its written policy specifying how it has integrated the veterans’ preference requirements into its personnel policies. An employing office may adopt a veterans’ preference policy that is to be transferred to covered positions. The act of adopting a veterans’ preference policy shall not relieve any employing office of any other responsibility or requirement of the Veterans Employment Opportunity Act of 1998 or these regulations. An employing office may amend or replace its veterans’ preference policies as it deems necessary or appropriate, so long as the resulting policies are consistent with the VEOA and these regulations.

Sec. 1.117. PRESERVATION OF RECORDS MADE OR KEPT.

An employing office that employs one or more covered employees or that seeks applicants for a covered position shall maintain any records relating to the application of its veterans’ preference policy to applicants for covered positions and to workforce adjustment decisions affecting covered employees for a period of at least one year from the date of the making of the record or the date of the action affecting the employer, whichever is later, one year from the date on which the applicant or covered employee is notified of the
personnel action. Where a claim has been brought under section 401 of the CAAA against an employing office under the VEOA, the responding employing office shall preserve all personnel records relevant to the claim and promptly provide a written explanation of the manner in which the employing office has determined the claimant to be preference eligible, and shall maintain and use only in accordance with the VEOA, the records relating to the veterans’ preference policies and practices. The date of final disposition of the claim may be delayed in identifying employees for release; and

(b) a statement as to whether the applicant is preference eligible and, if not, a brief statement as to why the employing office’s determination that the applicant is not preference eligible.

SEC. 1.119. INFORMATION REGARDING VETERANS’ PREFERENCE DETERMINATIONS IN APPOINTMENTS.

Upon written request by an applicant for a covered position, the employing office shall promptly provide a written explanation of the manner in which veterans’ preference was applied in the employing office’s appointment decision regarding that applicant. Such explanation shall include at a minimum:

(a) the employing office’s veterans’ preference policy or a summary description of the employing office’s veterans’ preference policy as it relates to appointments to covered positions; and

(b) a statement as to whether the applicant is preference eligible and, if not, a brief statement as to why the employing office’s determination that the applicant is not preference eligible.

SEC. 1.120. DISSEMINATION OF VETERANS’ PREFERENCE POLICIES TO COVERED EMPLOYEES.

(a) If an employing office that employs one or more covered employees provides any written guidance to such employees concerning employee rights generally or reductions in force more specifically, such as in a written employee policy, manual or handbook, such guidance must include information concerning veterans’ preference under the VEOA, as set forth in subsection (b) of this section, and any applicable policy statement of the office or agency.

(b) Written guidelines described in subsection (a) above shall include, at a minimum:

(1) the VEOA definition of veterans’ “preference eligible” as set forth in 5 U.S.C. § 2108(f) or any superseding legislation, providing the actual, current definition along with the statutory citation; and

(2) the employing office’s veterans’ preference policy or a summary description of the employing office’s veterans’ preference policy as it relates to reductions in force, including the procedures the employing office shall take to identify preference eligible employees.

(c) The head of the employing office may, in writing, shorten the period of advance notice required under paragraph (b) with respect to a particular reduction in force, if necessary because of circumstances not reasonably foreseeable.

(d) No notice period may be shortened to less than 30 days under this subsection.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XIV, executive communications were taken from the Speaker’s table and referred as follows:

193. A letter from the Administrator, Rural Business-Cooperative Service, Department of Agriculture, transmitting the Department’s “Major” final rule — Subpart B — Advanced Biofuel Payment Program (RIN: 0570-AA75) received January 21, 2011, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

194. A letter from the Administrator, Rural Business-Cooperative Service, Department of Agriculture, transmitting the Department’s “Major” final rule — Biorefinery Assistance Guaranteed Loans (RIN: 0570-AA73) received January 21, 2011, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

195. A letter from the Secretary, Securities and Exchange Commission, transmitting the Commission’s “Major” final rule — Disclosure for Asset-Backed Securities Required by Section 943 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Reles. Nos. 33-9175; 34-6374; File No. 87-24-10) (RIN: 3235-AK75) received January 21, 2011, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

196. A letter from the Secretary, Securities and Exchange Commission, transmitting the Commission’s “Major” final rule — Issuer Review of Assets in Offerings of Asset-Backed Securities (Release Nos. 33-9176; 34-63742; File No. 87-26-10) (RIN: 3235-AK76) received January 21, 2011, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.


Act of 2010”; to the Committee on Oversight and Government Reform.


PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. REHBERG (for himself, Mr. BARTLETT, Mr. BURGESS, Mr. DUNCAN of Tennessee, Mr. BURKS of Missouri, Mr. HERGER, Mr. HUNTER, Mr. JONES, Mr. LUMMIS, Mr. MCLINTOCK, Mr. MCKINLEY, Mr. PAUL, Mr. ROSS of Arkansas, Mr. SCHOCK, Mr. SHIMkus, Mr. SIMPSON, Mr. SMITH of Nebraska, Mr. TERRY, Mr. WALBERG, Mr. WALORE, Mr. WATSON of Minnesota, Mr. WESTMORELAND, and Mr. YOUNG of Alaska):

H.R. 412. A bill to amend the lead prohibition provisions of the Consumer Product Safety Improvement Act of 2008 to provide an exemption for certain off-highway vehicles, and for other purposes; to the Committee on Energy and Commerce.

By Mr. STARK:

H.R. 413. A bill to reduce the budget of the Department of Defense to the level provided for fiscal year 2008 and to freeze the budget at such level through fiscal year 2016; to the Committee on Armed Services.

By Mr. PRICE of North Carolina (for himself, Mr. BRADLEY, Ms. CHRISTY, Mr. COLE, Mr. DAVIS of Illinois, Mr. JACKSON of Illinois, Mr. PAYNE, Mr. RANGEI, Ms. LEE of California, Mr. MARKEY, and Mr. NUNN):

H.R. 414. A bill to amend the Internal Revenue Code of 1986 to reform the system of public financing for Presidential elections, and for other purposes; public financing for Presidential elections, and for other purposes; to House Administration, and in addition to the Committee on Ways and Means, for consideration by the Committee on Ways and Means.

By Mr. COHEN (for himself, Mr. HINCHEN, Ms. JACKSON of Texas, Mr. DOUGHERTY, Mr. PAYNE, Mr. PARKS, Mr. FRANK of Massachusetts, Mr. GARAMENDI, Mr. GENE of Texas, Mr. GRIJALVA, Mr. HARMAN, Ms. HIRONO, Mr. KILDEE, Ms. LEE of California, Mr. LEVIN, Mr. MARKEY, Mr. MILLER of California, Ms.
H.R. 440. A bill to provide an amnesty period during which veterans and their family members can register certain firearms in the National Firearms Registration and Transfer Record, and for other purposes; to the Committee on Ways and Means.

By Mr. BOSWELL: H.R. 420. A bill to provide an amnesty period during which veterans and their family members may register certain firearms in the National Firearms Registration and Transfer Record, and for other purposes; to the Committee on Ways and Means.

Mr. ROGERS (for himself, Mr. FLAKE): H.R. 439. A bill to amend the Energy Policy Repeal Act of 2016 to provide for an earlier start for State health care coverage innovation waivers under the Patient Protection and Affordable Care Act, and for other purposes; to the Committee on Energy and Commerce.

By Mr. WELCH: H.R. 438. A bill to amend the Energy Policy Repeal Act of 2016 to provide for an earlier start for State health care coverage innovation waivers under the Patient Protection and Affordable Care Act, and for other purposes; to the Committee on Energy and Commerce.

By Mr. WEINER: H.R. 437. A bill to authorize and request the President to award the Medal of Honor posthumously to Captain Edward A. Sharp of the United States Army for acts of valor during the Korean War; to the Committee on Armed Services.

By Mr. MARKEY (for himself, Ms. SLAGGERT, Ms. SCHAKOWSKY, and Mr. MORA): H.R. 432. A bill to ban the use of bisphenol A in food containers, and for other purposes; to the Committee on Energy and Commerce.

By Ms. MATSU: H.R. 433. A bill to authorize improvements to the Sacramento-San Joaquin River Delta to the American and Sacramento Rivers near Sacramento, California, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mrs. MCMORRIS RODGERS: H.R. 434. A bill to prevent the Secretary of the Treasury from hiring new employees to enforce the individual health insurance mandate; to the Committee on Ways and Means.

By Mrs. MILLER of Michigan: H.R. 435. A bill to terminate the National Flood Insurance Program and related mandatory purchase and compliance requirements, and for other purposes; to the Committee on Financial Services; to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PAULSEN (for himself, Mr. ALTMIRE, Mr. LEE of New York, Mr. GIEGLICH, Mr. RECHERT, Mr. LANCE, Mrs. MCMORRIS RODGERS, Mr. ROGERS of Michigan, Mr. BILLHAY, Mr. KLINE, Mr. CRAVACK, Mr. RCAF, Mr. AXIN, Mr. BARTLETT, Mr. BROUN of Georgia, Ms. BURRELL, Mr. BURTON of Indiana, Mr. CAMPBELL, Mr. CRAFFETT, Mr. COLE, Mr. CRAWFORD, Mr. DENT, Mrs. ELLERSM, Mr. ELMING, Mr. FLORES, Mr. FRANKS of Arizona, Mr. GIBBS, Mr. GOODLATTE, Mr. GUNIA, Mr. KALMBACH, Mr. LANKFORD, Mr. MARCHANT, Mr. MCCINTOCK, Mr. NEUBRAUM, Mr. NUGENT, Mr. POR of Texas, Mr. ROE of Tennessee, Mr. SCHNEIDER, Mr. STUTTMAN, Mr. WALSH of Illinois, and Mr. YOUNG of Indiana):

H.R. 436. A bill to amend the Internal Revenue Code of 1986 to provide that medical devices to the Committee on Ways and Means.

By Mr. POMPEO (for himself, Ms. JENKINS, and Mr. HURLSMAK): H.R. 437. A bill to authorize and request the President to award the Medal of Honor posthumously to Captain Edward A. Sharp of the United States Army for acts of valor during the Korean War; to the Committee on Armed Services.

By Mr. WEINER: H.R. 438. A bill to amend the Energy Policy and Conservation Act to provide for further requirements for the Energy Star program, and for other purposes; to the Committee on Energy and Commerce.

By Mr. WELCH: H.R. 439. A bill to provide for an earlier start for State health care coverage innovation waivers under the Patient Protection and Affordable Care Act, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. JORDAN (for himself, Mr. ISSA, and Mr. McHENRY): H.R. 430. A bill to terminate the Home Affordable Modification Program of the Department of the Treasury; to the Committee on Financial Services.

By Mr. JOHNSON (for himself, Mr. MCCUL, Mr. JORDAN, and Mr. NUGENT): H.R. 431. A bill to eliminate automatic pay adjustments for Members of Congress, and for other purposes; to the Committee on House Administration, and in addition to the Committee on Oversight and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.
By Mr. WOLF (for himself, Mr. PITTS, 
Mr. FRANKS of Arizona, Mr. HOLT, 
Ms. ESHOO, and Mr. SMITH of New 
Jersey): A bill to provide for the establish-
ment of the Special Envoy to Promote Rel-
igious Freedom of Religious Minorities in the 
Near East and South Central Asia; to the 
Committee on Foreign Affairs.

By Mr. YOUNG of Alaska:
H.R. 441. A bill to authorize the Secretary 
of the Interior, for a period to be subse-
cuently determined by the Speaker, in each 
House, to acquire land for the Alaska 
Native Tribal Health Consortium; to the 
Committee on Natural Resources.

By Mr. YOUNG of Alaska:
H.R. 442. A bill to amend the Omnibus 
Budget Reconciliation Act of 1993 to require 
the Bureau of Land Management to provide a 
clariﬁcation pursuant to the following:

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,
Ms. DeGETTE introduced A bill (H.R. 446) 
for the relief of Azucena Figueroa Rincon, Miguel Angel Figueroa Rincon, Blanca 
Azcuna Figueroa Rincon, and Nancy Araceli 
Figueroa Rincon, which was referred to the 
Committee on the Judiciary.

CONSTITUTIONAL AUTHORITY 
STATEMENT

Pursuant to clause 7 of rule XII of the 
Rules of the House of Representatives, the 
following statements are submitted regard-
ing the speciﬁc powers granted to Congress in the Constitu-
tion to enact the accompanying bill or 
joint resolution.

By Mr. REHBERG:
H.R. 412. Congress has the power to enact this legis-
lation pursuant to the following:

By Mr. STARK:
H.R. 413. Congress has the power to enact this legis-
lation pursuant to the following:

By Mr. PRICE of North Carolina:
H.R. 414. Congress has the power to enact this legis-
lation pursuant to the following:

By Mr. REHBERG:
H.R. 419. Congress has the power to enact this legis-
lation pursuant to the following:

By Mr. COOPER:
H.R. 420. Congress has the power to enact this legis-
lation pursuant to the following:

By Mr. MALONEY:
H.R. 418. Congress has the power to enact this legis-
lation pursuant to the following:

By Mr. OWENS:
H.R. 416. Congress has the power to enact this legis-
lation pursuant to the following:

By Mrs. MALONEY:
H.R. 417. Congress has the power to enact this legis-
lation pursuant to the following:

By Mr. COHEN:
H.R. 415. Congress has the power to enact this legis-
lation pursuant to the following:

The changes made by this bill to the Ele-
kementary and Secondary Education Act are 
authorized by the ﬁscal year 2000 Educa-
tion Authorization Act, Title I, Section 1, 
Section 8, Clause 1 of the Constitution.

By Ms. SCHAKOWSKY:
H.R. 416. Congress has the power to enact this legis-
lation pursuant to the following:

Mrs. MALONEY: By Mr. MALONEY:
H.R. 418. Congress has the power to enact this legis-
lation pursuant to the following:

The changes made by this bill to the Ele-
kementary and Secondary Education Act are 
authorized by the ﬁscal year 2000 Educa-
tion Authorization Act, Title I, Section 1, 
Section 8, Clause 1 of the Constitution.

By Mr. SCHAKOWSKY:
H.R. 416. Congress has the power to enact this legis-
lation pursuant to the following:

The changes made by this bill to the Ele-
kementary and Secondary Education Act are 
authorized by the ﬁscal year 2000 Educa-
tion Authorization Act, Title I, Section 1, 
Section 8, Clause 1 of the Constitution.

By Mr. SCHAKOWSKY:
H.R. 416. Congress has the power to enact this legis-
lation pursuant to the following:

The changes made by this bill to the Ele-
kementary and Secondary Education Act are 
authorized by the ﬁscal year 2000 Educa-
tion Authorization Act, Title I, Section 1, 
Section 8, Clause 1 of the Constitution.

By Mr. SCHAKOWSKY:
H.R. 416. Congress has the power to enact this legis-
lation pursuant to the following:

The changes made by this bill to the Ele-
kementary and Secondary Education Act are 
authorized by the ﬁscal year 2000 Educa-
tion Authorization Act, Title I, Section 1, 
Section 8, Clause 1 of the Constitution.

By Mr. SCHAKOWSKY:
H.R. 416. Congress has the power to enact this legis-
lation pursuant to the following:

The changes made by this bill to the Ele-
kementary and Secondary Education Act are 
authorized by the ﬁscal year 2000 Educa-
tion Authorization Act, Title I, Section 1, 
Section 8, Clause 1 of the Constitution.
By Mr. MCCLINTOCK:
H.R. 421.
Congress has the power to enact this legislation pursuant to the following:
Article I, Section 8 of the United States Constitution states that “The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States;’
To borrow money on the credit of the United States;’
By Mr. BACA:
H.R. 422.
Congress has the power to enact this legislation pursuant to the following:
Article I, Section 8, Clause 1 of the U.S. Constitution.
By Mr. BACA:
H.R. 423.
Congress has the power to enact this legislation pursuant to the following:
Article I, Section 8, Clause 1 of the United States Constitution.
By Mr. BURGESS:
H.R. 424.
Congress has the power to enact this legislation pursuant to the following:
The attached legislation falls under Congress’ enumerated constitutional authority to regulate interstate commerce pursuant to Article I, Section 8, Clause 3.
By Mr. DOLD:
H.R. 425.
Congress has the power to enact this legislation pursuant to the following:
Article I, Section 8, Clause 3, giving Congress the power to regulate interstate commerce.
By Mr. FLAKE:
H.R. 426.
Congress has the power to enact this legislation pursuant to the following:
Clause 1 of Section 8 of Article 1 of the United States Constitution.
By Mr. HELLER:
H.R. 427.
Congress has the power to enact this legislation pursuant to the following:
Clause 1 of Section 8 of Article I of the United States Constitution and Amendment XVI of the United States Constitution.
By Mr. HELLER:
H.R. 428.
Congress has the power to enact this legislation pursuant to the following:
The Congress enacts this bill pursuant to Clause 1 of Section 8 of Article I of the United States Constitution and Amendment XVI of the United States Constitution.
By Mr. ISSA:
H.R. 429.
Congress has the power to enact this legislation pursuant to the following:
The Interstate Commerce Clause.
By Mr. JORDAN:
H.R. 430.
Congress has the power to enact this legislation pursuant to the following:
Clause 3 of Section 8 of Article I of the Constitution, under which Congress has the power to regulate commerce among the States.
By Mr. LATTA:
H.R. 431.
Congress has the power to enact this legislation pursuant to the following:
Article I, Section 6: “The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States.”
By Mr. MARKEY:
H.R. 432.
Congress has the power to enact this legislation pursuant to the following:
Clause 3 of Section 8 of Article I of the Constitution.
By Ms. MATSUI:
H.R. 433.
Congress has the power to enact this legislation pursuant to the following:
By Mrs. McMORRIS RODGERS:
H.R. 434.
Congress has the power to enact this legislation pursuant to the following:
The Vesting Clauses of Articles I, II, and III along with the Supremacy Clause of Article VI, as well as of the Oath of Office that each constitutional officer of the Federal government must take pursuant to Article VI make clear that each coordinate branch of government must ensure that their actions are constitutional.
This bill is enacted pursuant to Congress’ legislative powers under Article I, Section 1, of the Constitution, and the oath to support the Constitution that all Members are required to take under Article VI. Under those provisions, Congress has the authority to prevent the enforcement of unconstitutional federal laws previously passed.
By Mrs. MILLER of Michigan:
H.R. 435.
Congress has the power to enact this legislation pursuant to the following:
By Mr. PAULSEN:
H.R. 436.
Congress has the power to enact this legislation pursuant to the following:
Article I, Section 8.
By Mr. POMPEO:
H.R. 437.
Congress has the power to enact this legislation pursuant to the following:
Article I, Section 8 of the United States Constitution (Clauses 12, 13, 14, and 16), which grants Congress the power to raise and support an Army; to provide and maintain a Navy; to make rules for the government and regulation of the land and naval forces; and to provide for organizing, arming, and disciplining the militia.
By Mr. WEINER:
H.R. 438.
Congress has the power to enact this legislation pursuant to the following:
By Mr. WELCH:
H.R. 439.
Congress has the power to enact this legislation pursuant to the following:
Article I, Section 8, Clause 3 of the United States Constitution.
By Mr. YOUNG of Florida:
H.R. 440.
Congress has the power to enact this legislation pursuant to the following:
Clause 1, Section 8, Clause 18—The Necessary and Proper Clause.
By Mr. WOLF:
H.R. 441.
Congress has the power to enact this legislation pursuant to the following:
Article I, Section 8, Clause 18 of the United States Constitution, which states: “The Congress shall have Power to make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by the Constitution in the Government of the United States, or in any Department or Officer thereof.”
By Mr. YOUNG of Alaska:
H.R. 442.
Congress has the power to enact this legislation pursuant to the following:
Article IV, Section 3, Clause 2.
By Mr. YOUNG of Alaska:
H.R. 443.
Congress has the power to enact this legislation pursuant to the following:
Article IV, Section 3, Clause 2 and Article 1, Section 8, Clause 3.
By Mr. YOUNG of Florida:
H.R. 444.
Congress has the power to enact this legislation pursuant to the following:
Article IV, Section 3, Clause 2 and Article 1, Section 8, Clause 3.
By Mr. YOUNG of Florida:
H.R. 445.
Congress has the power to enact this legislation pursuant to the following:
Amendment XVI of the United States Constitution.
Ms. DEGETTE:
H.R. 446.
Congress has the power to enact this legislation pursuant to the following:
The power granted to Congress under Article I, Section 8, Clause 4 of the United States Constitution.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 4: Mr. HOLDEN and Mr. COURTNEY.
H.R. 5: Mr. SESSIONS, Mr. RODGERS of Michigan, Mrs. BLACKBURN, and Mr. PLATTS.
H.R. 27: Mr. BLUMENTHAL, Mr. LIFISINSKI, Mr. FATTAH, Mr. ACKERMAN, Mr. BEHAN, Mr. CUMMINGS, Mrs. CULBERSON, Mr. WAXMAN, Mr. MILLER of North Carolina, Mr. FILNÉ, Mr. GEORGE MILLER of California, and Ms. JACKSON Lee of Texas.
H.R. 38: Mr. CONAWAY, Mr. GIBBS, Mr. ROONEY, Mr. NUNNELEE, Mr. PAUL, and Mr. NUGENT.
H.R. 49: Mrs. MYRICK, Mr. ROGERS of Kentucky, Mr. KING of Iowa, and Mr. NUGENT.
H.R. 59: Mr. McCOTTER.
H.R. 68: Mr. KLINE, Mr. ROSS of Florida, and Mr. MANZULLO.
H.R. 69: Mr. KLINE, Mr. ROSS of Florida, Mr. MANZULLO, Mr. POE of Texas, Mr. MARCHANT, and Mr. FLORES.
H.R. 97: Mr. LATTA and Mr. HARPER.
H.R. 111: Mr. RISSER of New York, Ms. TSONGAS, and Ms. DEGETTE.
H.R. 152: Mr. JONES and Mr. LONG.
H.R. 153: Mr. FANKENHEUN, Mr. FLORES, and Mr. GOODLATT.
H.R. 154: Mr. TERYK.
H.R. 198: Mr. LEE of New York, Ms. SUTTON, Mr. STARK, and Mr. LOBIONDO.
H.R. 212: Mr. POMPEO.
H.R. 217: Mr. YOUNG of Florida, Mr. CASSIDY, Mr. PETH, Mr. LANDRY, and Mr. HULTBRECHT.
H.R. 234: Mr. HENNAHLING.
H.R. 237: Mr. KISSELL, and Mr. FILNÉ.
H.R. 362: Mr. BRADY of Texas, Mr. STIVERS, Mr. OWENS, Mr. CARNABAN, Mr. KING, and Mr. FUKUNAGA.
H.R. 303: Mr. MURPHY of Pennsylvania and Mr. MORGAN.
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H.R. 314: Mr. ROONEY and Mr. GRIFF.
H.R. 347: Mr. DUKE.
H.R. 358: Mr. PETRI and Mr. FLORES.
H.R. 359: Mr. ROYCA and Mr. WILSON of South Carolina.
H.R. 365: Mr. SUSSERT.
H.R. 376: Mr. RANGEL.
H.R. 386: Mr. LIND, Ms. CHU, and Mr. CURE.
H.R. Res. 9: Mr. BARTON of Texas, Mr. THOMAS, Mr. OLSON, Mr. SAM JOHNSON of Texas, Ms. GRANGER, Mr. SESSIONS, Mr. LATHAM, Mr. KING of Iowa, Mr. CONAWAY, Mr. CALVERT, Ms. JENKINS, Mr. DENT, and Mr. FLORES.
H. Res. 11: Mr. LEVIN, Mr. VAN HOLLLEN, Mr. MARKY, Mr. YARMUTH, Mr. Himes, Mr. McDERMOTT, Mr. RANGEL, Mr. MEeks, and Mr. GUTERREZ.
H. Res. 20: Mr. JOHNSON of Georgia.
H. Res. 25: Mr. WILSON of South Carolina and Mr. YOUNG of Florida.
H. Res. 34: Mr. MANZULLO, Mr. BURTON of Indiana, Mr. ROHRABACHER, Mr. Faleomavaega, Ms. LEE of California, Mr. ACKERMAN, Mr. BARROW, Mr. ENGEL, Mr. GALLEGO, Mr. SIEBES, Mr. MEeks, Mr. McDERMOTT, and Ms. BERKLEY.
H. Res. 41: Ms. FUDGE and Mr. CICILLINE.
H. Res. 44: Mr. FLORES.

CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, OR LIMITED TARIFF BENEFITS

Under clause 9 of rule XXI, lists or statements on congressional earmarks, limited tax benefits, or limited tariff benefits were submitted as follows:

OFFERED BY MR. CAMP

The provisions that warranted a referral to the Committee on Ways and Means in H.R. 359 do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI of the Rules of the U.S. House of Representatives.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 359

OFFERED BY MS. CASTOR OF FLORIDA

Amendment No. 2: Page 2, amend line 21 to read as follows: "to the Office of Justice Programs for local law enforcement for costs of providing security at Presidential nominating conventions."

H.R. 359

OFFERED BY MS. CASTOR OF FLORIDA

Amendment No. 3: Strike line 3 on page 1 and all that follows through line 2 on page 2 and insert the following:

SECTION 1. FINANCING OF SECURITY FOR PRESIDENTIAL NOMINATING CONVENTIONS.

Page 2, line 3, strike "(b)" and insert "(a)."
The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable JEANNE SHAHEEN, a Senator from the State of New Hampshire.

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

Let us pray:

Almighty God, whose kingdom is above all earthly kingdoms and who judges all lesser sovereignties, give our lawmakers this day clean hands and pure hearts to serve You and Your people. Equip them with grace, strength, and wisdom to make our Nation and world better for the glory of Your Name. Lord, infuse them with a creativity that will empower them to do their work according to Your will. Give them peace of soul when their thoughts and plans are right, and disturb them when they drift from what is best. Lead them in paths of righteousness and when they stray from what is best. Lead them in paths of righteousness and peace of soul when their thoughts and plans are right, and disturb them when they drift from what is best. Lead them in paths of righteousness and peace of soul when their thoughts and plans are right, and disturb them when they drift from what is best. 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question the patriotism of a colleague who has been elected to serve his State and his country.

But it is even more than that. As we more carefully choose our words, we must also remember we do not have the luxury of Moynihan and to caution, choose our own facts. If we are going to change the way we speak in the hope of changing the way we do business, we have to reintroduce truth into the public debate. This doesn’t just rephrasing an attack line from “job-killings” to “job-destroying,” as House Republicans have done in response to the shooting. It means if there is no proof that a policy takes away jobs—if in fact the evidence shows the opposite—we shouldn’t pretend any differently. The non-partisan referee we rely on for this data—the Congressional Budget Office—found that when it comes to health care reform—which is what the Republicans are talking about in this case—simply not true.

Changing our rhetoric requires us to debate facts, not invent them.

In the coming weeks, much of the discussion on the Senate floor will revolve around health care, the deficit, and the debt limit—those three things. Each of these issues affects the No. 1 issue in America, jobs. Each issue is complex. If we are going to make the right decisions and point our economy back in the right direction, we have to start with a shared respect for the facts.

First, let’s look at health care. Independent fact checkers examined all the political rhetoric of the last year. Given the intensity of the legislative debates and the election season, there was a lot from which to choose. But one claim stood out above all—the habit of those opposed to health care to call it a “government takeover.”

One of those nonpartisan experts, factcheck.org, plainly called it “false.” Another, PolitiFact, a project of the St. Petersburg, FL Times, called it the “Lie of the Year.” So if we are going to have an honest debate about the health reform law we passed last year, retiring this scare tactic would be a good place to start.

The deficit: Madam President, my friends on the other side are quick to associate the current President with the current deficit as if it happened overnight and under his watch. But here is a brief review of the facts.

In the 1990s, we balanced the budget under the direction of President Clinton. At the beginning of the next century, America had a bigger surplus than ever in its history. Over the next decade, while our troops went into battle, the costs of two wars went off-budget. The richest took home giant tax breaks but nobody paid the bill. A massive prescription drug program wasn’t paid for either.

President Bush left President Obama a record deficit. Those unpaid-for wars, tax breaks, and programs are the reason we are in a hole today. What we do next is fair game for debate. But facts, as President John Adams said, are stubborn things.

Finally, Madam President, the debt limit: We will soon debate the debt limit. Earlier this month, the Secretary of the Treasury, Timothy Geithner, sent us each a letter as to what would happen if we don’t raise that ceiling. It would be the first time in the history of America that our country would default on our legal obligations. He didn’t share his partisan opinion in that letter; he simply laid out the facts. This is what he wrote:

Default would effectively impose a significant and long-lasting tax on all Americans and all American businesses and could lead to the loss of millions of American jobs. Even a short-term or limited default would cause catastrophic consequences that would last for decades.

What are some of those consequences? Our troops and veterans would no longer get their paychecks. Our seniors would no longer get the Social Security and Medicare checks to which they are entitled. Student loans would simply stop. On a larger scale, the Secretary of the Treasury warned it would lead to a worse financial crisis than the one we are still recovering from.

There soon will be lots of time to debate what we will do about the debt limit, but these are the facts we must first acknowledge and consider.

Finally, the American people voted in November for a divided legislative branch of government, a Democratic Senate and Republican House. They didn’t elect Houses led by competing branches. The Secretary of the Treasury warned a government takeover was the last thing he wanted us to cooperate; they did so because they want us to cooperate. We cannot cooperate without an honest debate and we cannot have an honest debate if we insist that fiction is fact.

Mark Twain, a great Nevada, once said: “If you tell the truth, you don’t have to remember anything.” He was right. Here is one thing every Senator should remember and never forget: Although there are many different points of view in this body, we all share the same reality.

I look forward to a productive Congress and we can do that by debating the facts.

PROVIDING FOR A JOINT SESSION OF CONGRESS TO RECEIVE A MESSAGE FROM THE PRESIDENT

Mr. REID. Madam President, before I turn this over to my friend the Republican leader, I ask unanimous consent the Senate proceed to the immediate consideration of H. Con. Res. 10, which was received from the House and is at the desk, that the concurrent resolution be agreed to, the motion to reconsider be laid on the table, that no intervening action or debate take place, and any statements be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered. The concurrent resolution (H. Con. Res. 10) was agreed to.

RECOGNITION OF THE MINORITY LEADER

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

DEPARTING COLLEAGUES

Mr. MCCONNELL. Madam President, I wish to start today’s debate by acknowledging the news from last week that three of our colleagues will be leaving us when their current terms expire. Senator HUTCHISON has been a trusted adviser of mine, a leader in the Senate, and a dear friend. Senator CONRAD has been a leader on the budget. He has done a lot to alert the country to the fiscal problems we face as a Nation. Senator LIEBERMAN has been a consistent and courageous leader on defense and national security issues. We will be sorry to see them go. They have all been a great credit to this body.

STATE OF THE UNION ADDRESS

Mr. MCCONNELL. Madam President, every grade school student knows that all three branches of the Federal Government in Washington are equal, but as every Member of Congress quickly learns, the President sets the agenda. Never is that more apparent than on the day of the State of the Union Address. This year the President will be speaking to a Congress that looks very different from the one he spoke to last year. The voters sent a clear message in November that when it comes to jobs and the economy, the administration’s policies have done far more damage than good.

One very positive thing that the President could do tonight is to acknowledge they have a point. He has tried to do so indirectly in recent weeks by hiring new staff and by speaking in tones of moderation, but it takes more than a change in tone to improve the economy. It takes more than a change in tone to reduce the debt. It takes more than a change in tone to help create the right conditions for private-sector job growth. It takes a change in policy, and the early signals suggest the President isn’t quite there yet.

The President has talked recently about working together to improve a regulatory climate that stifles business innovation and job growth. Yet he has not acknowledged the extent to which his own policies have stifled growth. Over the past 2 years, his administration has issued more than 300 economically significant new rules or 40 percent more than the annual rate under the last two Presidents. What is worse,
the new health care bill will alone create 159 new bureaucratic entities and it is exempt from the President’s proposed regulatory reforms. The health care bill, which will create 159 new bureaucratic entities, is exempt from the President’s proposed regulatory reform. This is an ill wind for small business that was already struggling to get by in a down economy and which is now grappling with how to afford all the new mandates in the new health care bill.

The President has talked about streamlining and reducing the burden of government. Yet the health care bill he has signed is already increasing the cost of care and forcing people out of their existing coverage. The debate over this bill continues and the President and Democrats in Congress continue to defend it. But when nearly two-thirds of doctors surveyed predicted it will make health care in America worse, Americans are right to be concerned. It should tell us something that of the 19 doctors currently in Congress, 18 of them support repeal of the health care bill.

The President has talked about the need to cut spending and reduce the debt, and in the past 2 years his policies have added more than $3 trillion to the national debt, much of it through a stimulus that promised to keep unemployment—now hovering just below double digits—from rising above 8 percent. And now he’s said that he plans to stick with the same failed approach of economic growth through even more government spending with a call for “investments” in education, infrastructure, research, and renewable energy.

We have seen before what Democrats in Washington mean by investments. In promoting the failed stimulus, the President referred to that too as an investment in our Nation’s future. Fourteen times during his signing statement he referred to the stimulus bill’s investments. We all know what turned out.

The first stimulus, we were told, would include critical so-called investments in education, infrastructure, scientific research, and renewable energy—the same areas we are told he will focus on tonight. Only later did we learn that some of these critical investments included things such as repairs to hospitals; a study on the mating decisions of cactus bugs, hundreds of thousands of dollars for a plant database, and a $355 million loan to a California solar panel maker which, instead of hiring 1,000 new workers as planned, just laid off 175 instead.

This is what happens when the government decides to pick winners and losers without considering what the marketplace wants. Competitors are left out in the cold, employees get a false sense of security, and taxpayers are left holding the bag. Unfortunately, the President does not seem to have learned this lesson quite yet. But taxpayers now know that when Democrats talk about investments they should grab their wallets.

So I am all for the President changing his tune, but unless he has a time machine, he cannot change his record. If we are going to make any real progress in the areas of spending, debt, and reining in government, the President will have to acknowledge that the policies of the past 2 years are not only largely to blame for the situation we find ourselves in, but that unless we do something to reverse their ill effects, the road to recovery and prosperity will be a bumpy one.

The President has spoken in the tones of a moderate many times. He did so in his campaign. He has done so in countless speeches. He has a knack for it. I have no doubt he will do so again tonight. But speeches only last for as long as they are delivered. Americans are more interested in what follows the speech and, in the case of this administration, Americans have good reason to be skeptical. Time and time again the President has spoken in a way that appeals to many, then governs in a way that doesn’t. My hope is he will leave that method aside. A better path, in my view, is the one Republicans have been proposing for 2 years, one that respects both the wishes of the public and the two-party system.

Last year, prior to the President’s State of the Union, I proposed a number of areas where I thought the two parties could find common ground and work together to help the economy. The President ignored just about everything I proposed. So when the pun-dits ask whether there are areas where the two parties could come together, I would say yes, I have proposed several of them, but the Democrats don’t seem to be interested. Some have suggested that in this new post-election environment I might find a more receptive audience. So in the spirit of bipartisan-ship, I wish to propose once again a few areas where I believe the two parties can work together in the weeks and months ahead.

I believe the parties can and should work together on energy initiatives that expand America’s domestic energy supply and make us less reliant on foreign sources; on expanding exports and creating jobs through free trade agreements with Panama, Colombia, and South Korea; and on reforming corporate taxes. As American businesses are more competitive in an increasingly global marketplace. These are just a few of the things we can do beyond the symbolic gestures and the posturing to help the economy.

Beyond that we need to cut spending and to rein in the size and scope and cost of government. The voters have been crystal clear on this point. By proposing more government spending tonight, the President is not only defying the American people but refusing to learn the clear lesson of the failed stimulus—government may create debt but it doesn’t create jobs.

I think we have a lot of work to do in bringing the two parties together in a program that will actually address the problems we face. But there are reasons for optimism. The President’s change in tone is an acknowledgement at least that there is something has to change. Republicans are willing to work with Republicans last month to keep taxes from going up on anyone. In the coming weeks and months Americans will be looking to him to come around on spending and debt as well, and Republicans will be working hard to persuade him to do so.

I yield the floor.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

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

The Senator from Illinois.

FOCUSING ON THE FUTURE

Mr. DURBIN. Madam President, last week President Hu Jintao of China came to Chicago after he was received in Washington. He was received in a gala manner in that great city and I happened to be there for the dinner. There were leaders of the community and business all there because China has become an important part of American life. It wasn’t that long ago that China was stuck in the past. We can re-call the Chinese in their green quilted identical clothes on their bicycles wearing their “Little Red Books” of Chairman Mao’s great quotations and basically being discounted and dismissed as not a major factor.

In the world economy today, China is a major factor and that is why the remarks of the Republican minority leader need to be put in perspective. The real question the President will ask us tonight is, is America ready to compete in the 21st century? Do we have what it takes to regain the edge when it comes to manufacturing jobs and to be competitive? The challenge the President offers us is to do what is responsible when it comes to our budgeting but not to forget the investments necessary in our future. When I look at how the United States is likely to suc-cede, you have to start with education and training. We have to have an educated workforce, the best in the world. We have to reward innovation; provide the kind of research incentives at the Federal Government level that lead to the commercialization of products and услуг to our manufacturing and production that grows our economy.

If we walk away from that, if we say that the United States can no longer
afford to invest in America, we are walking away from what is essential for our competitive edge. When I hear the Republican leader stand and say we cannot afford these investments in America anymore, I wonder what his vision is for it comes to our competitive edge. I think it is when we maintain that. The President is going to do that, I believe, in the context of responsible budgeting.

For the record, we had a deficit commission proposed on a bipartisan basis last year by Senator CONRAD and Senator Gregg, and it was a commission that came up for a vote on the floor of the Senate. Does the Senator from New Hampshire remember what happened? We failed to pass this deficit commission when seven Republican Senators, who were cosponsors, came down and voted against it.

The President had no choice at that point but to start an executive commission, on which I was proud to serve, and that commission did not have the binding authority that the legislative commission did, which was defeated by the Republicans on the floor of the Senate. So, now, as they pose for holy pictures in deficit reduction, I do not want to erase that memory of seven Republican Senators, co-sponsors, who turned and reversed their position when it came to this deficit commission.

I served on this commission. The one thing the commission reminded us of over and over is that when we hit the deficit brake, do not hit it too soon or we can skid off the road. We can be back into a deeper recession if we are not careful.

There is good news—not as much as we would like, but there is good news. A CNN opinion research poll released this morning said the percentage of the American people who felt things are going well is up 14 points since December. The director says we have not seen numbers like this since April of 2007. One likely reason for the change is the public’s growing optimism about the economy. Why is it that this good news about the economy makes the Republicans feel so sad and gloomy? It is an indication we are moving in the right direction.

When the Senator from Kentucky gets up and says: Government just creates debt, it does not create jobs, that was not the speech we heard when we extended executive orders. Exactly the opposite was said on the floor of the Senate. Republican Senators stood up and said: Give tax cuts to people, and they are going to be able to spend more money for goods and services and have more confidence in the future.

That was a government decision—a government decision endorsed by the President and a strong bipartisan majority in the Senate and the House. The government can work in a positive way.

Let me say one word about health care. I listened carefully as Republican after Republican came to the floor to decry the notion that there would be a government-administered health care plan. Now, it is not a government health insurance plan; it is private health insurance administered through the government and insurance exchanges to give everybody a chance to buy health insurance at rates that are fair to those on the one hand and those on the other side who stand up and decry government-administered health insurance plans are, in fact, insured under a government-administered health care plan called the Federal Employees Health Benefits Program.

So I would basically say this: We all know the Hippocratic Oath, and we all know the saying: "Physician, heal thyself." I would say to those Republican Senators calling for repeal of health care for the rest of America, first, Senators, repeal your own. Step away from the government-administered health care plan. If you find it so objectionable for the rest of America, then reject it when it comes to your own health insurance. As I said, the Senate, Democrats and Republicans, I think without exception, are all members of the government-administered health care plan. If it is good enough for Members of the Senate, why is it not good enough for the rest of America? I think that is the basics.

Let me close by saying this: When it comes to trade agreements, I believe we should have good ones, that are fair to American workers and businesses, ones that are enforced when there are unfair practices. But we have to be careful as well that we have a tax code that also rewards good conduct by American businesses.

Our Tax Code currently subsidizes America corporations that want to ship production overseas. Why in the world would we spend a dollar in our tax money to reward a company that wants to remove a job from America? Over and over again, we have begged the Republicans to join us in a bipartisan effort to roll this subsidy for shipping jobs overseas. That would be a good way to build the economy here in America, create good-paying jobs here at home, and invest in a country which has a bright future if we do not get caught up in the political rhetoric of the day.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

TUCSON TRAGEDY

Mr. KYL. Madam President, I would like to call timeout from this partisan discussion to speak to the Members in the presence of January 8. It is the first opportunity I have had to address my colleagues about the tragedy of that day. The theme I would like to discuss is the goodness of people because if I have gotten any lesson from this, after meeting and talking with so many of those who were involved in this tragedy, the overwhelming notion of the goodness of people is what I am most left with.

Tomorrow, Senator McCaIN and I will offer a resolution in support of the victims of the shooting, offering condolences to those who were lost and their loved ones and our prayers for the recovery of those who were injured and expressing appreciation to those who came to the aid. As the President pointed out, we will have time more formally to talk about when we do that tomorrow, but I wanted to share some thoughts from my heart based on my interaction with the people over the last 2 weeks and a gun event that occurred in Arizona.

It begins with the proposition that Tucson likes to call itself a town, not a city. It is over half a million people. But you are all familiar with communities which, though large in numbers, seem small because people work together, they play together, and they have a sense of community and of helping and working with each other. That is Tucson, where my wife and I both attended the University of Arizona. The Safeway where this event occurred is only two blocks from my Tucson office, and the head of my Tucson office and his staff were at the Safeway that Saturday morning shopping, and they left about 7 or 8 minutes before this occurred.

Judge John Roll, who was a very close friend and attended Mass virtually every morning, had just come from Mass and had decided to come to the Safeway to express his appreciation to Representative GABRIELLE GIFFORDS. They were friends. Among other things, he wanted to tell her he appreciated her signing a letter, along with Representative GRIJALVA, that supported the Arizona Federal District Court in its desire to be named an emergency district by the commission that does that for the Federal courts because of the overwhelming caseload in that court.

Judge Roll, though he had significant administrative responsibilities, kept a full caseload himself because to do otherwise would have been to put part of the burden onto his colleagues. So he was really carrying two separate loads, administering a very busy court, and at the same time acting as a judge on all of his cases.

One of the things he and I had been working on—in fact, Senator BARRASSO, Senator Lemieux, and I had lunch with Judge Roll the Friday after the election to talk about how we could strengthen the courts, especially because of the crushing caseload from drug and immigration cases because that is the district that is right down on the border. Part of his work, which I was working with him on, was to try to find ways to ameliorate the load of this court and potentially get some additional magistrates, if not judges, to help handle the caseload.

With Representative Giffords, he hoped to hold this “Congress on Your Corner” event, many of the people on her Tucson staff went with her to the event. They are very devoted to her.
do not know anyone who enjoys meeting with constituents more than Representative GIFFORDS. So she had several staff people there too. When the gunman came, he immediately headed for her. His intention was obviously to do her harm, but right after she shooting Representative GIFFORDS, he began to shoot the people on her staff and the others waiting in line to talk to her.

This is where some of the goodness of the people comes out. I mean, I talked about the goodness of the people. Judge Roll did not have to say "thank you" to Representative GIFFORDS, but he went out of his way to try to do that. When Ron Barber, the head of Representative GIFFORDS' Tucson staff, was shot, Judge Roll, the cameraman, pushed him down under a table and put his body over Ron Barber's body and thus took the bullet that killed John Roll. Talk about the goodness of people.

At his funeral, everyone in Tucson and all of us who knew Judge Roll spoke not just of his abilities as a jurist and his public service but his goodness, his love for his wife Maureen, their three sons, their grandchildren. Incidentally, three of his grandchildren spoke. It was so moving when they talked about the love they had for their grandfather, who took a lot of time with each of them to teach them how to swim, to play basketball, and so on. The goodness of people.

Representative GIFFORDS' staff was there. They liked her and were very willing to be with her on a Saturday morning when they could have been doing something else with their families.

Gabe Zimmerman, just 30 years old, was one of those staff people, and he, too, lost his life. My staff in Tucson really enjoyed working with Gabe. Now, I am a Republican, they are Republicans, and Gabe is a Democrat who is a Democratic Representative. That did not matter to them. They really enjoyed working together for the same constituents. And I will tell you, my Tucson staff has taken his loss very hard.

There were others from his staff who were there, one of whom is an intern. I visited with Mavy at her home. Her two daughters were there and a very good friend of ours, Ed Biggers, from Tucson, who also attends their church. The kindness of all of those people and the way they talked about the others involved, as well as, as you can see, the members of family and friends helping each other, was, as I said, an impression that will stick with me forever.

Phyllis Schneck, who everyone agreed was there, at her wonderful grandmother, spent her winters in Tucson—she lived in New Jersey. All of these folks were human beings with friends, with family, with futures, and to have all of them taken from us is a real tragedy.

What can we take from that? At this time, I think I have gone almost 10 minutes. Tomorrow, I will mention some of the other heroes. I will take a second with some of them, though. Bill Badger, a retired Army colonel, did not want to talk about his heroism, but he helped to subdue the assailant. Anna Ballis, who has two sons, both of whom doctors who have done repeated tours in Afghanistan and Iraq, was in the Safeway, came out, and immediately began administering to Ron Barber. I went to visit Ron in the hospital at the same time Anna had visited him, and Ron was holding her hand the entire time, saying: This is the lady who saved my life. Just a tremendous act of selfless courage on her part and showing again the wonderful humanity of all of the people there.

Steve Rayle, a doctor, a former emergency room doc, was there and helped to subdue the assailant and so on.

There are many others. We will talk about some of the others tomorrow when we express more formally our views on this resolution. I know all of our colleagues will want to join us in supporting this resolution to let the folks of Tucson know we appreciate what they have endured here, we appreciate the heroism. Our prayers are with the victims, and our hearts go out to all of those who were injured in some way or other.

From this, among the lessons we learned is that people have innate goodness. We all have a side of us that we wish we did not have sometimes too frequently expressed on the floor of this body. But maybe for a little while, we can acknowledge the fact that there is goodness in everyone, and I saw so much of that in all of these people drawn from all over the community, different walks of life, different political parties, different ages. Yet when they came together, what was most obvious was the compassion and their goodness. I think that is something that should be a lesson to all of us.

Tomorrow, I will speak more formally, as I said, about this resolution. But I am deeply grateful for the expressions of condolence and the comments of all of my colleagues have presented to me and to Senator MCCAIN.

The ACTING PRESIDENT pro tempore. The Senator from Utah.

Mr. HATCH. Madam President, in recent months President Obama has frequently expressed his desire to have everyone acknowledge the policies that led to this crisis. President Obama seems to have finally recognized the frustration and anger of the American people over our Federal fiscal policy.

Though he was late to the table on this issue, President Obama seems to have finally recognized the frustration and anger of the American people over our Nation's disturbing fiscal situation. He is right to do so.

Our yearly deficits and accumulated debt hang over the futures of our children and grandchildren like a sword of Damocles.

Recognizing that you have a problem is an important first step, and I applaud the administration for speaking about our Nation's structural deficits. But this is a critical issue, and any solution will require that those responsible give a full and fair accounting of the policies that led to this crisis.

Unfortunately, rather than own up to his administration's complicity in our fiscal imbalance, the President prefers to blame our current and future fiscal problems on the previous administration.

For this President, the buck always seems to stop over there.

Mr. HATCH. Madam President, well before citizens began organizing against this administration and its historic spending spree, the President and
his Democratic allies in Congress were justifying their stimulus program by blaming the previous administration. Yet trying to pass off the consequences of the last 2 years on a long-retired President and a Congress that ended over 2 years ago is no longer plausible.

Try as they might, revisionist fiscal history will not absolve our friends on the other side for the fiscal decisions made on their watch.

I will explain that point separately, and in detail, in a few days. It is by now evident that this administration stop pointing fingers. The American people are demanding that their elected Representatives, in Congress and the White House, act like adults and fix this fiscal mess.

In a few weeks, President Obama will send Congress his third budget.

The fact that Treasury Secretary Geithner has already written us requesting legislation to raise the debt ceiling does not bode well for citizens seeking an administration dressing, rather than bold efforts to address a spending trajectory that is approaching crisis status.

Willy Sutton, the infamous bank robber, was asked why he robbed banks:

By the way, here is a chart depicting a photo of Mr. Sutton from Life.com. How would Willie respond?

He allegedly said he robbed banks because that is where the money is.

If President Obama wants to propose credible deficit reduction proposals, he needs to go where the deficit dollars are.

And what is the source of those deficits?

Taking Willie Sutton’s answer to heart, where do we look for those deficits?

They are in the trillions of dollars in new spending that the American taxpayer has been burdened with by this administration.

Non-defense discretionary spending, by itself, has grown by 24 percent over the last couple of years.

And that 24 percent figure does not include the stimulus.

If stimulus spending is included, non-defense discretionary spending has grown by 84 percent.

That is right, Madam President, 84 percent.

How many typical taxpayers should lay blame for that much in the last couple of years?

Let’s take a look at the Gallup weekly survey of daily consumer spending as a comparison. I have a chart which shows the trend line in daily consumer spending.

Over here, we can see from the chart consumer spending before the financial crisis of fall 2008 and the recession.

It is running near or above $100 per day.

Then what happens?

Americans cut back their extra spending.

It is right here on the rest of the chart.

Is it any wonder Americans are telling us to cut our spending?

They have cut spending. Why can’t we in Washington do the same?

When the President laid out his last 2 budgets, the loudest bipartisan applause came when he stressed fiscal discipline.

That reaction should surprise no one. Though conservatives led the way, the American people understand that deficit reduction is not a partisan issue. If the promises of our Declaration of Independence and Constitution—promises of liberty and opportunity—are to mean anything for future generations, our country needs to take up deficit reduction now.

Republicans are going to insist on meaningful deficit reduction as a course correction to our currently unsustainable fiscal path. As our Nation comes out of this painful slow-growth period—hopefully sooner rather than later—we must focus on cutting the deficit and the debt.

Republicans agree with the President on the priority of fiscal discipline.

But deeds mean more than words.

And twice, the President’s budget, in spades of rhetoric needed to show fiscal discipline, has gone in the direction of un-paid-for spending, new government programs and entitlements, and massive financial burdens on the next generation of American taxpayers.

The numbers don’t lie.

The President and the Democratic leadership have dramatically expanded the deficit and piled onto the debt.

Two years ago, Republicans and Democrats dramatically disagreed on the stimulus bill. Out of all the Republicans in the House and Senate, only three supported the stimulus bill conference report.

Along with most of my Republican colleagues, I rejected this stimulus bill for several reasons.

First was the size and the form of the stimulus. Most on our side understood that $1 trillion in deficit spending was an unacceptable burden on the people who would ultimately foot the bill.

Second, we questioned the focus of the stimulus. We weren’t keen on trying to grow the economy by priming the government pump. Spending $1 trillion of taxpayer money on the academic theory that you have to spend money to make money was a gamble the American taxpayer could not afford. And last year, while the administration and its allies were out promoting recovery programs in Utah and around the country had long before figured out that the administration’s stimulus bet was a big loser.

Finally, what disturbed us most was the hidden fiscal burden built into the bill. Though sold as a $787 billion bill, the real cost of the stimulus was, in fact, much higher.

I am going to use a chart to show this hidden cost of the stimulus bill. This chart was produced last year but was updated when we receive the Congressional Budget Office baseline.

According to the nonpartisan CBO, if popular new programs in the stimulus
The stimulus is made permanent, then there is $276 billion in new non-hidden entitlement spending right off the bat. The cost of the bill more than doubles. If those increases become permanent, they will be nationalized universal entitlements—it is a permanent tax on every American. The second column of this chart details CBO’s analysis of stimulus spending with other spending cuts. The deficit reduction attained was $35 billion. And how did we achieve it? The only way to control costs when the economy is deteriorating is through reformation. The path forward is not going to be easy. These are CBO figures. They are not the kind of "deficit reduction" we’re interested in. Furthermore, we believe spending cuts will actually be more effective than tax increases. The deficit reduction isn’t "fiscal responsibility": According to CBO, the Democratic health care law will "reduce deficits" by increasing taxes by $770 billion "over" increasing net spending by $540 billion. That’s not the kind of "deficit reduction" we’re interested in. In the end, only Republican votes carried that stand-alone deficit reduction measure. Yet now American taxpayers are being asked to believe that Democrats have found religion on deficits and debt. Our friends on the other side will, no doubt, say time out. We have produced a significant deficit reduction bill, they will say. They will point to last year’s ObamaCare legislation. They will argue that this bill, which creates massive new entitlements, somehow saves money. Our Democratic friends will even claim that CBO data, showing $230 billion in deficit reduction from this bill, is the only way to control costs when the government is in charge of the system. The path to greater choice for patients and lower costs for all must begin with a full repeal of the Democrats’ costly new health care law.

The only way to control costs when the government is in charge of the system is for bureaucrats to ration care. The path to greater choice for patients and lower costs for all must begin with a full repeal of the Democrats’ costly new health care law.

The True Deficit Impact of the Democrats’ Health Care Law
DEAR HONORABLE TRUSTEES: As Congress and the American people await the release of the 2010 Annual Report of the Trustees of Trust Funds (the Medicare Trustees Report), we are excited to provide supplementary information in an accompanying document so that the public can accurately assess the impact of the new health care law on the Medicare program.

The 2009 Medicare Trustees Report laid out a grim assessment of the financial status of the Medicare program. Fueled by an aging population, rising health care costs, Medicare expenditures, according to that report, would rise from 3.2 percent of Gross Domestic Product (GDP) in 2008 to 11.4 percent of GDP in 2083. The Medicare Trustees report estimated that Medicare’s unfunded liability is $38 trillion over the next 75 years and that its Hospital Insurance (HI) Trust Fund is expected to become insolvent in 2017.

For Congress to effectively address the critical challenge of Medicare solvency, it must have a complete and accurate assessment of the program’s fiscal position. We would like to request that you provide to Congress, contemporaneous with the release of the 2010 Medicare Trustees Report, a report that addresses the two following issues.

In recent years, the Trustees have noted an important limitation regarding the report’s projections for Medicare Part B expenditures from the Supplementary Medical Insurance (SMI) trust fund. While the Trustees’ projections are based on the assumption that current law will continue unchanged, the law’s scheduled reductions in Part B payments to physicians under the Sustainable Growth Rate (SGR) provisions have not occurred as Congress—the only entity that has allowed to take effect—since 2003 Congress has consistently enacted changes in law to defer the reductions. The 2009 Medicare Trustees Report estimated Medicare Part B expenditures under current law which assumes the deferred large reductions will eventually occur.
over a 75-year horizon under the two alternative scenarios for physician payments that will be included in the supplement produced by the CMS Actuary.

Our second requirement relates to an issue raised in the memorandum released by the CMS Actuary on April 22, 2010, titled Estimated Effects of the Patient Protection and Affordable Care Act, as Amended, on the Year of Exhaustion for the Part A Trust Fund, Part B Premiums, and Part A and Part B Coinsurance Amounts. That memo stated the following about the impact of health reform on the HI trust fund for Medicare Part A:

The combination of lower Part A costs and higher tax revenues results in a lower Federal deficit based on budget accounting rules. However, trust fund accounting considers the same lower expenditures and additional revenues as extending the exhaustion date of the HI trust fund. In practice, the improved HI financing cannot be simultaneously used to finance other Federal outlays (such as coverage expansions under the PPACA) and to extend the trust fund, despite the appearance of this result from the respective accounting conventions.

According to CMS, PPACA contained $757 billion in net Medicare savings, including $63 billion in Medicare payroll tax increases over fiscal years 2010–2019. However, as the Congressional Budget Office (CBO) previously indicated in a letter on December 23, 2009, these dollars cannot both offset new spending under PPACA and then also extend the life of Medicare’s HI trust fund. CBO concluded:

The key point is that savings to the HI trust fund under PPACA would be received by the government only once, so they cannot be set aside to pay for future Medicare spending, at the same time, pay for current spending on the other parts of the legislation or on other programs. To describe the full amount of HI trust fund savings as both improving the government’s ability to pay future Medicare benefits and financing new spending outside of Medicare would essentially double-count a large share of those savings and thus the same movement in the government’s fiscal position.

We request that the Trustees provide a projection for the date of exhaustion for Medicare’s HI trust fund assuming that all the estimated Medicare savings under PPACA are not set aside to pay future Medicare benefits but instead are used to finance new spending (outside of Medicare) in the new health care law.

We trust that you will provide a response to our request concurrent with the release of the 2010 Medicare Trustees Report. It is our sincere hope that the Trustees Report will find that the cost of Democrats ending Medicare Part A is certainly not the case. And the record will show that the fiscal effects of PPACA were not as large as claimed.

And I expect we will hear quite a bit about it in the State of the Union Address. The President can count on applause from our side of the aisle if he presses for reductions in out-of-control spending. But merely relabeling new spending as investments will not make our deficits go away, and it will do nothing to tackle our escalating debt.

Mr. HATCH: A clear pattern has emerged with respect to Democratic rhetoric on the budget. They speak loudly about deficit reduction, while continuing to write checks that this Nation cannot cash.

Consider the last debt limit increase bill, which included the much ballyhooed statutory pay-go scheme. My friends on the other side speak of it frequently.

But they have also been the most frequent violators of both the spirit and letter of statutory pay-go.

The Senate Republican Policy Committee analyzed all of the spending offsets and other budget constraints re-asserted since statutory pay-go was adopted.

I ask unanimous consent that a copy of this analysis be printed in the RECORD.

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

## DEFICITS PILED ON BY SENATE DEMOCRATS SINCE STATUTORY PAY-GO*

<table>
<thead>
<tr>
<th>Bill</th>
<th>Bill No.</th>
<th>Deficit impact, 2010–2020 ($ billion)</th>
<th>Floor action</th>
<th>Date</th>
<th>Link to CBO score</th>
</tr>
</thead>
<tbody>
<tr>
<td>Baucus Tax Extenders bill (v.1.0)</td>
<td>H.R. 4213</td>
<td>3.0</td>
<td>Vote to pass bill w/o offset</td>
<td>3–Mar</td>
<td><a href="http://bit.ly/bHw9Hl">http://bit.ly/bHw9Hl</a></td>
</tr>
<tr>
<td>Temporary two-month extender bill</td>
<td>H.R. 4851</td>
<td>2.8</td>
<td>Vote to pass bill w/o offset</td>
<td>14–Apr</td>
<td><a href="http://bit.ly/ky6Qfl">http://bit.ly/ky6Qfl</a></td>
</tr>
<tr>
<td>2010 Emergency Supplemental</td>
<td>H.R. 4899</td>
<td>5.9</td>
<td>Vote to kill Column #1 withhold</td>
<td>27–May</td>
<td><a href="http://bit.ly/kYf0C0">http://bit.ly/kYf0C0</a></td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>278.5</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Notes:**

- **Statutory PAYGO** was included in H.J. Res 45 (P.L. 111–139), which passed February 12, 2010. For more detail about PAYGO and how it operates, refer to the CRS summary: http://bit.ly/aOgf9m.

- The CBO score of the HI revenue (PPACA) accounts for the statutory PAYGO impact. The CBO does not score the $47 billion in authorized transfers from the Highway Trust Fund to the General Fund even though they will be borrowed. This is because the transfers reflect the combined effects of the bill as scored by CBO with these authorized transfers. See this document from the Budget Committee for more background: http://budget.senate.gov/republicans/perspectives/CBO-02-00RevExpPlan.pdf.

- **CBO** estimates that the act would increase projected deficits by more than $5 billion in at least one of the four consecutive 10-year periods starting in 2021 (beyond the budget window).

Mr. HATCH: Total it up and you will find that the cost of Democrats end-running their own pay-go rule meant almost $280 billion in additional deficit spending.

I think this point needs to be very clear.

Senate Republican attempts to force our friends on the other side to abide by the letter or spirit of their own pay-go rule were rebuffed for almost all of last year. The reason was not some academic exercise. And now the American taxpayers are on the hook for roughly $280 billion, courtesy of Democrats purportedly committed to spending restraint.

Still, we are heartened that Democrats no longer claiming a commitment to deficit reduction.

Talking tough is a necessary—though not sufficient—step toward getting our financial house in order.

Giving up is a positive development that the President has endorsed passage of the U.S.–Korea Free Trade Agreement. Maybe the administration is waking up to the importance of our pending trade agreements for our exports and the workers who make them.

But the proof of his commitment to our exporters must go beyond the Korea FTA. We can no longer let our trade agreements with Panama and Colombia languish as we lose competitiveness and allow other countries to seize these markets for their workers.

Talking about trade does not produce jobs. We need the President to take action and submit these agreements to Congress. And we need that action now. The U.S. worker cannot afford to wait.

Passage of these trade agreements can boost our economy and our competitiveness without additional spending. They are important tools that we must put to work. If the President chooses this route, I believe he will find an important ally in Congress.

I look forward to President Obama’s proposals for prioritizing deficit reduction. There is no issue more critical to this Nation’s future.
Republican President created this deficit from bipartisan policies they jointly developed.

To those Democrats who claim Republicans have no right to discuss deficits, they need look no further than their own records. Take a look at the fiscal effects of the stimulus bill they crafted 2 years ago. Take a comprehensive look at the real deficit impact of ObamaCare.

Take an honest look at the appropriate comparisons that piled on double-digit increases in spending.

American families don’t have the luxury of 84 percent or 24 percent increases in their spending. They have made their priorities and restrained their spending.

If American families can prioritize, deleverage, and live within their means, I hope the President will push his allies in Washington to do the same.

All of us in Congress await the arrival of President Obama’s third budget.

The American people are demanding that he make deficit reduction a priority. And they are asking Congress to approach this subject in an intellectually honest fashion.

We need to acknowledge that when it comes to the budget, the road to fiscal ruin has been paved with good intentions. In the name of fixing the economy, the Democrats’ stimulus bill has imposed short-term and long-term costs on American taxpayers, jeopardizing economic growth and, with it, liberty and opportunity. That damage has been expanded with un-offset extensions of what we were told were temporary provisions.

As we start writing a budget, let’s do it with all the fiscal cards on the table. Let’s remove the political blinders and deal with the fiscal facts. And that means being realistic about expiring tax relief, its merits, its economic growth effect, and its political popularity.

This is not a problem that we can tax our way out of. Getting our fiscal house in order is going to require hard decisions on spending. We need to put our shoulders to the wheel. We owe it to the people who sent us here.

There is an old saying that applies here. I am not the first person, nor will I be the last, to reference it in the context of fiscal troubles. The saying is: When you find yourself in a hole, stop digging. We need to use our spades to fill this fiscal hole, not dig it deeper.

I look forward to this debate on spending. It will not be an easy one. But the American people have demanded that Congress take up this cause, and I fully intend to.

Ultimately, I am confident that we will achieve meaningful deficit reduction. Yet I go into this debate with my eyes open.

President Reagan, in the foreign policy arena, reminded us to trust, but verify.

As we await the President’s State of the Union speech, Republicans trust that Democrats will make a nod toward deficit reduction, but we need to verify whether they are serious about getting this problem under control.

Democrats do not have a great track record when it comes to cutting spending. But hope springs eternal.

Madam President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The assistant legislative clerk proceeded to call the roll.

Mr. CARDIN. Madam 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.

HONORING DR. MARTIN LUTHER KING, JR.

Mr. CARDIN. Madam President, on Monday, January 17, our Nation once again celebrated the birthday of Dr. Martin Luther King, Jr., as a national holiday. Signed into law in 1983, the bill to make Dr. King’s birthday a legal public holiday was the result of a 15-year legislative effort.

Although I was not a Member of the Congress at the time, I remember well the national debate and eventually the overwhelming legislative engendered. For the Senate pages on the floor today, for their entire lifetime, Dr. King’s birthday has been a Federal holiday. But they and all young Americans should know the passage of that law was not certain and not without controversy at the time.

I was the speaker of the Maryland house of delegates in the 1980s when the State of Maryland took up legislation to make Dr. King’s birthday a State holiday. By the votes of several States that passed State laws to make Dr. King’s birthday a holiday. As the federalism system works, as more States got engaged in this issue, the momentum at the national level became very apparent. And for the importance of this day and its message to Americans, the Congress finally enacted legislation in 1983.

This holiday, which has appropriately come to be known as a day of service, would not have happened without much grassroots support. Some of those who were instrumental in passing this historic legislation were Majority Leader REID, Senators BAUCUS, BINGAMAN, Senator INOUYE, Senator LAUTENBERG, Senator LEVIN, and Senator LUGAR, as well as the president of the Senate, Vice President JOE BIDEN. Moreover, five Senators who were Members of the House of Representatives at the time were original cosponsors of the companion bill, H.R. 3706, which became law. They are Majority Leader REID, Senators AKAKA, BOXER, MIKULSKI, and SCHUMER. I thank them all for their leadership and vision in the 1980s as to the importance of making this holiday a remembrance to Dr. Martin Luther King.

Twenty years before its enactment, in August of 1963 on the steps of the Lincoln Memorial, Dr. King delivered what is his most well-known speech, in which he called for racial equality and social justice for all Americans.

In honor of Dr. King’s birthday, I ask unanimous consent that the text of that speech be printed in the RECORD.

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

“I HAVE A DREAM”

(By Dr. Martin Luther King, Jr.)

“I am happy to join with you today in what will go down in history as the greatest demonstration for freedom in the history of our nation.

“Five score years ago, a great American, in whose symbolic shadow we stand today, signed the Emancipation Proclamation. This momentous decree came as a great beacon light of hope to millions of Negro slaves who had been seared in the flames of withering injustice. It came as a joyous daybreak to end the long night of their captivity.

“But one hundred years later, the Negro still is not free. One hundred years later, the Negro lives on a lonely island of poverty in the midst of a vast ocean of material prosperity. One hundred years later, the Negro is still languished in the corners of American society and finds himself an exile in his own land. And so we’ve come here today to dramatize a shameful condition.

“In a sense we’ve come to our nation’s capital to present our creative protest against a government that has permitted the Negro to wait at the crossroads of history.

“Now is the time to make real the promises of democracy. Now is the time to rise from the dark and desolate valley of segregation to the sunlit path of brotherhood. Now is the time to lift our nation from the quicksands of racial injustice to the solid rock of brotherhood.

“Now is the time to make justice a reality for all Americans. It would be an anachronism to postulatate that social conditions remain the same in the 21st century that they did in the 19th century.

“But we refuse to believe that the bank of justice is bankrupt. We refuse to believe that there are insufficient funds in the great
vaults of opportunity of this nation. And so, we've come to cash this check, a check that will
 gratuiteau freedom and the security of justice. 

Let us start anew. Now in the valley of despair.

I say to you today, my friends.

And so even though we face the dificulties of today and tomorrow, I still have a

Mr. CARDIN. Madam President, I

THE DEFICIT 

Mr. CORKER. Madam President, I will speak for just a few moments on something I think is the most impor-

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

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

BULLY OF BELARUS

Mr. DURBIN. Mr. President, during the recent 2-week recess, I was invited to speak to the Senate about the nation of Lithuania in the capital of Vilnius. It was a great honor. This country holds a special place in my heart. My mother was born in Lithuania. One hundred years ago this May, my grandmother brought her, my brother, and sister to America. My mother was 2 years old. They landed in Baltimore, and somehow our family found its way to meet up with my grandfather in East St. Louis, IL, a city which was home to a large number of Lithuanians. I am amazed at the lack of discipline that exists in Congress. We have no mechanism, no straitjacket, if you will, that forces us to act responsibly.

So over a long period of time we have worked together a topic of the fiscal responsibility. I thank my colleagues for the patience that you have shown as we work together on both sides of the aisle to arrive at a responsible prior to this debt ceiling vote. I know all of us know it would be very irresponsible not to act responsibly prior to this debt ceiling vote. I think all of us know that the Federal Government can't react quite as quickly as a State or city—that smoothing mechanism is averaged out so we know what the target is in the ensuing year. It has tight constraints. It requires a 67-vote majority or two-thirds of the Senate, two-thirds of the House to override. So it is a very strong bill. Again, I think people on both sides of the aisle are beginning to embrace this type of thinking.

It is my hope, again, as the President tonight hopefully, talked responsibly about our fiscal state here in the United States, that this type of mechanism, if you will, gains momentum. It is also my hope that we will vote and pass something such as this, along with actuality to put together prior to the debt ceiling vote. I think all of us know it would be very irresponsible not to act responsibly prior to this debt ceiling vote which will take place sometime in April, May or possibly June.

So having colleagues for the time to talk a little bit about this, again, on the first day of us coming back together. I can't imagine anything more important for all of us to focus on than to get our fiscal house in order. I know the whole world is watching us.

I know people have said we in Washington don't have the courage to deal with this. I know the Presiding Officer has had to deal with this as the Governor of a State. I certainly had to deal with this as the mayor of a city and a businessman and financial commissioner of my State. We all know things are away here. I think we have a wonderful opportunity in a bipartisan way, to do something that puts our country back on strong footing.

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

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

The assistant legislative clerk proceeded to call the roll.
I was in Minsk last week, and I met with Sergey Martynov, who is the Foreign Minister to Lukashenko. He pleaded with me to give his “new democracy” credit, new democracy in Belarus. He said: Senator, you live in a country that has had democracy for 200 years. Well, only half of that is true. He said: Give us credit. When we arrested all these people—including seven of the people who ran against him—we didn’t use tear gas. There were no rubber bullets, no police dogs. Give us credit.

No, I said, you didn’t use those tools, but you systematically arrested and threw into jail everybody who ran against you. That is not even close to democracy.

I had the chance to meet with some of the family members of those who are in jail. I could not help but think that just a few hours before I had been in Lithuania, a 3-hour drive from Minsk in Belarus, where 20 years ago ordinary people were doing things we take for granted. The first thing we would do is: We are willing to die for democracy. Fourteen of them lost their lives and 1,000 were injured—just ordinary people. These are not the political class. These are folks who are sick and tired in Belarus of the authoritarian rule.

I wish to show some of the people I met who I think are worth being part of the record today.

First—and this was in a meeting established by an embassy in Minsk, Belarus. They threw out our Ambassador a few years ago. So we have five people trying to represent the United States of America in this country. Bless them for trying. It is a hard job. They are constantly monitored, eavesdropped, followed. Life is not pleasant. When we start getting down on people working for the United States of America, remember these five who are risking their lives for us every day. Here is an outpouring of support for the United States and for freedom in this authoritarian country.

This lady was at the meeting in the consulate. Svyatlana Lyabedzka is the wife of Anatol Lyabedzka, chair of the United Civic Party. Anatol has been regularly harassed, fined, and imprisoned for his political activities. In 2004, he was severely beaten by Lukashenko’s police force.

His wife told me, in tears, that her husband has been taken away to jail and she has had no information about him. That has been almost 1 month. She does not know what is happening to him or where he is being held.

The second person I would like to make a part of this record is Tatsyana Sevyarynets. She is the mother of Paveal Sevyarynets, the head of Presidential candidate Vital Rymasheuski’s campaign. He has already served several years in jail for protesting previous sham elections in Belarus. That is right while people were being thrown in jail for protesting rigged elections, when it is those doing the rigging who ought to be in jail. Her letters go unanswered. Her complaints filed against the government have been ignored. She has been prevented from traveling, and her passport has been taken away for some time. She told me it is impossible to find an explanation for what is happening. “My son has been persecuted for 16 years.” This year, she gave me as I struggle with these names. These people deserve better. I will do my best—Kanstantsin Sannikau, Ala Sannikava, and Lyutsina Khalip. These three were at the meeting. Kanstantsin and Ala are the son and mother of a detained Presidential candidate, Andrei Sannikau.

Ala told me, in tears, that she had no contact with her son for 14 days, nor had her lawyers. She had no information on his condition.

Lyutsina is the grandmother of the candidate’s 3-year-old son Danil. You might have read about this little boy in the newspaper. What Lukashenko did was arrest a Presidential candidate and his wife and then said the State was going to take custody of his 3-year-old child. The grandmother stepped up and said: I will take custody of the boy. For the longest time, it was in doubt whether he would remain with the family. They relented yesterday and said the boy could remain with the family.

This is a picture of him—a cute little fellow, Danil. In Belarus, not only did they arrest the candidate Sannikau but they took the boy out of his family. That is what they planned on. When they arrested the wife Irina, a journalist and automatically considered dangerous in Belarus, they decided to go after her child. The grandmother fought a winning battle and now has custody of the child.

Let’s hope America’s attention and the world’s attention will make a difference.

The last one I wish to show is particularly compelling. Milana Mikhailевич is a 34-year-old mother of two whose husband Alex was also a Presidential candidate. She told me of her harassment by Belarusian officials since her husband’s arrest. Mr. President, 34 years old, and this young woman was standing there with this beautiful little girl, scrambling around on the floor all around her. She had a 10-year-old at home. She was trying to describe how she was keeping things together and that, together, they had the courage to run for President and lose against the dictator Lukashenko, sat in prison.

Incidentally, they do not get attorneys. That is not part of the deal. Anyone who says they will defend the people arrested is subject to disbarment as an attorney and charged with crimes themselves. It is not exactly a fertile field of attorneys stepping up to represent these people. They take their lives in their hands to do so. The families of these political prisoners, no correspondence, no way of visiting those in prison. They have no idea when they are going to be charged or tried. There is no indication that there is going to be a public trial.

This is going on in Belarus today, and this woman with her little girl is trying to figure out when and if she will ever see her husband and the father of this little girl again.

The nightmare she described to me was incredible. She literally has had her house raided by the Belarusian KGB. She has been stopped from going to Poland, where she was trying to find support for her husband. She doesn’t even know how he is, physically.

I was so glad to be in Lithuania and to join in the celebration of their quest for freedom and independence. After 20 years pass, sometimes you forget how much courage it took for that to happen. But a 3-hour drive from Vilnius to this event in Minsk reminded me. These people in Belarus are waging the same battle today that was waged in Lithuania and so many other places many years ago. They are trying to find the courage to take on the force for granted every day—freedom, the freedom to practice the religion of their choice, the freedom to write a newspaper or do a blog, the freedom to vote for the candidate of their choice, their right to oppose government policy. As a result they have been arrested and imprisoned.

I am calling on the government of Belarus to immediately and unconditionally release these political prisoners and quadruple the sanctions on the regime. The European Union will decide by the end of January whether Belarus should face renewed sanctions, including targeted travel and asset freezes against Lukashenko and his top elite figures. The United States should not waste no time joining this effort. I have spoken directly to Secretary of State Hillary Clinton. She understands, as I do, what is at stake here is today’s fight for freedom. What is in question is whether the United States will stand and fight with these families. The European Union is prepared to lead and we should be by their side. We should be working together to put the pressure on this dictator to tell him in the 21st century there is no place for the bully of Belarus and the terrible oppressive tactics in which he has engaged.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The Senator from Rhode Island is recognized.
Mr. WHITEHOUSE. I thank the Chair.

(The remarks of Mr. WHITEHOUSE pertaining to the introduction of S. 45 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. WHITEHOUSE. I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. I thank the Chair.

(The remarks of Ms. COLLINS pertaining to the introduction of S. 112 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Ms. COLLINS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The Senator from Nebraska is recognized.

AMERICA'S COMPETITIVENESS

Mr. JOHANNS. Mr. President, as we look forward to tonight's State of the Union Address, we are hearing a lot of talk about jobs and the United States being more competitive. Unfortunately, too many people have heard the talk, they have heard the rhetoric, but they do not see the concrete action that is going to make a difference. The time for talk really is over.

Today, I am introducing three concrete measures to unleashed American competitiveness and lift barriers to American job creation.

First, we must unbridge our job creators from the onerous 1099 tax paper work that is buried in section 9006 of the health care bill. Behind the scenes, for the past few weeks there has been growing bipartisan support for this important piece of legislation. In fact, now I can report that 50 Senators have signed on as cosponsors, including, I believe, 10 or 11 of my colleagues from across the aisle. Successful passage of this repeal would send an enormously powerful message. It would declare that the 112th Congress will come in and remove barriers to job creation. Left unabated, though, this avalanche of paperwork will simply bury businesses. If a business purchases more than $600 of goods or services from another business, it will be required to prepare the business and the IRS with a 1099 form. This new mandate will affect all kinds of businesses in the country. It also will include nonprofits, churches, local governments. This small section of this 2000-plus page bill is causing massive confusion and, I might add, outrage across the country.

Although this mandate was included in the health care law, it has abso-
So with 14 million Americans still unemployed, our country will tune in to the State of the Union tonight with keen ears for ideas that create jobs, that boost the economy. But our three negotiated trade deals continue to sit there. It is unacceptable, and it needs to change. By this July, the House and Senate and the White House will have implemented their own free-trade agreements, putting U.S. business at a competitive disadvantage.

The Korea-U.S. Free Trade Agreement fixes that. Our friends to the north in Canada and south in Mexico have trade deals in place with Colombia. While our agreement languishes, their exports are winning the marketplace. Imagine how our exporters feel watching their competition move to the front of the line, knowing that the agreements put them ahead.

If we fail to act on the agreement, it is clear that our U.S. producers will fall behind. It is happening. Thus, today I am calling upon my colleagues in both parties to work with the President and this Congress to unlock the benefits.

According to the U.S. International Trade Commission, these agreements would increase new U.S. exports between $10 and $12 billion, reducing the U.S. trade deficit and boosting the economy. In addition, these new U.S. goods exported to South Korea, Colombia, and Panama trade agreements. Our President and this Congress hold the keys to unlocking the benefits.

As I noted today in my opening statement, I introduced a resolution pushing for the approval of the Korea, Colombia, and Panama trade agreements. Our President is designed to do that. But we should not at least seek the same treatment for our businesses and our workers?

Almost 1 year ago today we heard the President speak about aggressively expanding the marketplace in the international market. These agreements would do that. I hope tonight he reaffirms his commitment.

Finally, the third pillar of the competitive package that I introduced today would lower our corporate tax rates 20 percent. For many years, the United States has had the second highest corporate tax rate in the world—second highest corporate tax rate in the world—second only to Japan. Japan has now announced that they will reduce their corporate rate for 2011. With this reduction, the United States will have the highest corporate tax rate of anyone in the entire world. That means the U.S. tax environment for our job creators will be the least attractive in the entire world.

Here is the problem: When you take into account a Federal corporate tax rate of 35 percent and the average State corporate tax rate, the combined U.S. corporate tax rate totals more than 39 percent, nearly 40. This combined rate soars above those of other countries with which American businesses compete. That makes absolutely no sense. Is it any wonder that jobs are leaving this country to go to other competitive countries? Our Nation should be encouraging business creation and growth, not putting our job creators at a disadvantage with this extraordinary, No. 1-in-the-world tax rate.

At least 27 of 34 nations in the Organization for Economic Cooperation and Development have cut their general corporate income tax rates since 2000. These countries have benefitted from increased capital investment, and—get this—they have seen their corporate tax revenues, as a share of GDP, actually increase even with the lower rate because they are expanding the base.

According to a July 2010 analysis by PricewaterhouseCoopers, the U.S. would have to reduce its Federal rate to 20.3 percent to match the average corporate income tax rates for other OECD countries. Thankfully, many recognize the need to bring our corporate tax rate in line with those of other industrialized nations. In fact, in December, the President’s Export Council recommended that the corporate tax rate be reduced to 20 percent. This will stimulate job creation across the country, all sectors of the job market.

Washington cannot continue to say one thing and do another. That is why today I am introducing the Restoring American Competitiveness Act of 2011. This legislative package, the 1099 repeal, the resolution supporting the trade agreements, the bill to reduce the highest—soon to be the highest—corporate tax rate in the world will provide a solid foundation for our country to move forward.

It will send a powerful message that this 112th Senate supports job creation and is committed to unleashing American competitiveness. I am hopeful that my colleagues will join me in supporting this important package. We are off to a good start, and I thank my colleagues on both sides of the aisle who have joined me in this effort.

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

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

RECESS

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

Thereupon, the Senate, at 12:37 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. Webb).

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

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

UNANIMOUS CONSENT REQUEST—S. RES. 21

Mr. MERKLEY. Mr. President, I submit a resolution on behalf of myself and Senator Tom Udall to amend rule XIX and rule XXII of the Standing Rules of the Senate, and I ask unanimous consent that the Senate proceed to the immediate consideration of the resolution.

The PRESIDING OFFICER. Is there objection?

Mr. MERKLEY. Mr. President, for purposes of having the resolution go over, under the rule, I object.

The PRESIDING OFFICER. Objection is heard. The measure will go over, under the rule.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection, it is so ordered.
Mr. MERKLEY, Madam President, I ask unanimous consent to speak on the issue of Senate rules. I will be joined by a few colleagues in a few minutes.

The ACTING PRESIDENT pro tempore, The Senator is recognized.

Mr. MERKLEY. Thank you, Madam President.

The reason I am rising to talk about rules is because we are at the start of a new 2-year period for Congress. This is the appropriate time to be deliberating how well the Senate is working and whether we should amend the rules by which the Senate functions.

The last major debate over many of the rules was in 1974. The reason there was a debate that particular year is that in 1973 and 1974, the Congress preceding, there were 44 filibusters, each eating up about a week of the Senate's time. There was a tremendous amount of frustration over the dysfunction of the Senate. So at the start of the Congress that began in 1975, there was an enormous amount of debate, debate that went on for weeks, with all kinds of motions. The spreadsheet tracking them at the end of the end, this body, the Senate, decided to do was to change the rule that requires 67 Senators to terminate debate and have a final vote on a bill and replace it with the decision to have 60 Senators required to end debate and have a final vote on a bill. This is for the so-called cloture motion.

Now we are in a period immediately preceded by the 2009–2010 Congress. In 2009, we didn't have any filibusters; we had 135 filibusters. In other words, the Senate has been three times as dysfunctional as it was preceding the last major debate in this Chamber over rules. Since each filibuster delays the work of the Senate for approximately a week under the rules, if you have 135 objections in a 2-year period, that would be 135 weeks of delay in a 104-week period. Obviously, many things are not going to get done with that type of obstruction. Indeed, during 2010 this Chamber was unable to pass a single appropriations bill of the 13 appropriations bills traditionally taken under consideration, debated on this floor, and sent forward. Why is that important? Because in the appropriations bills, we make decisions about what the most pressing problems in America are and how we are going to allocate resources to address those pressing problems. We didn't fail to do this in one or two areas; we failed to do it in all 13. Furthermore, this body did not pass a budget during the last year, 2010. This body did not proceed to advance and consent on all of the nominations that came before it. In fact, we left over 100 nominations pending.

This merits a little bit further discussion because under the Constitution, it is the Senate, this esteemed Chamber, that weighs in on the President's nominations to fill key executive branch positions. It is this Chamber that weighs in on the President's recommendations to fill judicial positions, to assign judges.

If we never get to the debate on the floor of the Senate, then we have not fulfilled our constitutional responsibility to advise and consent. In fact, we have wounded the executive branch, and we have damaged the judicial branch. Certainly, under our theory of balanced government, we envisioned that the advise-and-consent function of the Senate would be used to damage other branches of government. We have failed in our responsibility.

Furthermore, we have left over 400 House bills lying on the floor, collecting dust, unprocessed, unconsidered. The saying in the House of Representatives is the Senate is where good House bills go to die.

It is appropriate that as we start a new 2-year period, we ask ourselves how we should address this dysfunction. There was a time in which the Senate was called the greatest deliberative body in the world. Unfortunately, today there is very little deliberation, much less agreement, on these appropriations bills, nominations unprocessed, hundreds of House bills untouched, an incomplete budget. The main culprit in this is the filibuster. A filibuster is a kind of street language. If you will, for our colleagues' object of holding a majority vote and triggering about a week's delay in the Senate's process, and it also triggers a supermajority of 60.

It has gotten to the point that in this constitutional function of the deliberative body, a body in which we need 51 votes, it is functionally becoming a supermajority body.

The Framers of the Constitution were very clear and they laid out a supermajority required for certain purposes. A supermajority is required to approve treaties or a supermajority is required to impeach but not to pass legislation. That was not the vision.

Today, I rise to say we can do better in the Senate and that we owe it under our constitutional responsibilities to do better.

There are a series of proposals that have been filed. One of my colleagues has arrived, Senator Udall, who has been a key leader, enormously instrumental in this effort to reform the Senate. In a few minutes, I am going to ask unanimous consent for one of these rules change to be considered on the floor. I will do that when my colleagues across the aisle have arrived. I will go into greater detail in discussing how we need to change the Senate.

Before I go further, Senator Udall already asked for a colloquy. I thought I would stop at this moment and see if he wants to jump in and share some general thoughts before we get into the specifics of the various resolutions which we might ask unanimous consent to have considered.

The ACTING PRESIDENT pro tempore, Mr. Udall from New Mexico.

Mr. UDALL of New Mexico, Madam President, first of all at the beginning, let me thank two of my colleagues who have worked incredibly hard with me on the issue of Senate rules reform—Senator MERKLEY from Oregon and Senator HARKIN from Iowa. Senator HARKIN will be joining us at some point.

I also wish to thank the Chair, one of the measures that are being considered—the constitutional option on Senate reform of the rules was Senator JEANNE SHAHEEN from New Hampshire. She is in the chair today. I know she cares about this a lot. I know she wants to see this move forward.

What we are trying to do is follow what has been the history in the Senate. At various points in the Senate, there has been respect for each other, the ability to get legislation on the floor, to have debate. With the rules, it is pretty extraordinary when we look at the history.

When we look at the history of the Senate rules, one of the things that is very clear in the movements in the fifties, sixties, and seventies to consider rules reform, both leaders would allow proposals onto the floor, allow these proposals onto the floor to be voted upon.

We have the extraordinary situation today—extraordinary, and we will see whether our colleagues show up—we have friends on the other side of the aisle basically saying: We don’t want your rules reform on the floor today. We are not going to allow that to happen.

Now, everybody in the Senate knows, we have to have unanimous consent to do this. We are not going to get consent today, but we want to lay out for people what it is that could happen if we were able to get something on the floor.

It is my belief, I say to Senator MERKLEY, that the proposals we make—the proposal Senator MERKLEY and I are on and the Presiding Officer, Senator SHAHEEN, and 26 other Senators on S. Res. 10, that were filed on January 10, is a reasonable proposal; it is a commonsense proposal. The five proposals that are contained in the resolution have had substantial bipartisan support in the past. I am going to be asking unanimous consent to put S. Res. 10 onto the floor so we can have a debate on it, so we can move forward. What is, as I said, extraordinary is we are not going to get that consent. Our research indicated that Senator MERKLEY and his staff worked very hard. They had a chart that was three pages long. In the fifties, sixties, and seventies, these proposals were on the floor. They were debated on the floor. Sometimes there was a motion to table, sometimes there was an up-or-down vote. But we are having great difficulty getting this reasonable, commonsense proposal on the floor.

Let me talk a little bit about S. Res. 10, which 26 other Senators cosponsored on the first day. First of all, it deals with a serious problem. There are five parts to this issue. The first one is debate on motions to proceed. It may
sound a little crazy to people out there, but when we try to get something onto the floor, it does not happen automatically. Actually, what has to happen is if both sides do not agree, the majority leader files what is called a motion to proceed. We can end up on the motion to proceed for a week, have to file cloture, which means to cut off debate on the motion to proceed, and then with all the ripening time it takes about 1 week to get through that. We can get to the end of the week and then do not get the 60 votes to cut off debate on the motion to proceed, we are back to square one and have wasted a week. That is what we believe is a dilatory tactic. It does not let us get to the point, the people’s business.

Mr. MERKLEY. If I may interrupt for a moment, I wish to clarify what the Senator from New Mexico just said, which is, a supermajority of the Senate, after 1 week of debate, is required just to get to the point where we might start to talk, and then the Senate wastes weeks and weeks debating whether to debate rather than doing the people’s business. That is a problem.

Mr. UDALL of New Mexico. Senator MERKLEY hit it on the head. That is a problem, and we have had that consistently in the 2 years that he and I have been here. My understanding is, it happened in many of the years before that time. In fact, Senator Byrd was very upset about the way the motion to proceed was being used. In 1979, he came down to the floor—he was the majority leader—and he did everything he could to change the motion to proceed and try to make sure it was used more rationally and more reasonably.

What our proposal is, I say to Senator MERKLEY, and other Senators on this resolution know, we are talking 2 hours of debate on the motion to proceed. Rather than wasting a week, if Majority Leader REID comes down and says we are going to proceed to legislation about jobs and he puts it on the floor, the side over there gets an hour and our side gets an hour and then we are on the legislation, ready to have amendments filed, ready for debate to take place.

We have saved us what we believe would be 1 week of time. That is dealing with the first proposal on the motion to proceed.

The second proposal is very simple, but it is going to move the Senate along in a dramatic way; that is, section 2, eliminating secret holds. I know we have several Senators who have worked for years and years on secret holds. When I talk about the bipartisanship on secret holds, Senator GRASSLEY, Senator WYDEN, from Senator MERKLEY’s great State of Oregon, Senator CLAIRE MCCASKILL of Missouri more recently, have all been working on the issue of secret holds.

We very simply do this in one little section. We say:

No Senator may object on behalf of another Senator without disclosing the name of that Senator.

That gets right to the heart of secret holds.

Mr. MERKLEY. Madam President, the Senator from New Mexico is telling me it has become a common practice on the floor of the Senate for an individual Senator who wants to oppose something to not have the courage to stand here and tell the world their position but instead to secretly object to a particular issue being raised. I cannot imagine the American public can believe that Senators do not have the courage of their convictions to come here and say: I am going to hold up this legislation because I disagree with it, and I am going to fight it any way I can. So the public can weigh in if they agree with them or not. They will be accountable to the U.S. citizens.

Mr. UDALL of New Mexico. One of the things that we have seen a lot of this—we know some Senator is objecting, for example, to a nomination, a high nomination in an executive department and does it secretly so we do not know on the Senate floor, the press who covers this does not have any knowledge of it. We do not know then, the same Senator goes to the department and negotiates policy, national policy about a particular issue that concerns the whole Nation, all our States, and tries to get an agreement, a backup, a sense of agreement. That is not the way we should be doing business, and that is why this very simple proposal: “No Senator may object on behalf of another Senator without disclosing the name of the Senator.”

You own the hold.

Mr. MERKLEY. I wish to note, as Senator UDALL observed, Senator WYDEN, Senator GRASSLEY, and Senator MCCASKILL have worked hard on a much more detailed version than we are. It is in the legislation. It does not talk about that issue because that is the issue on which you worked the hardest. I had an amendment I wanted to present that would have taken some of the money in that bill that was being spent in a fashion which created very few jobs and to spend it in a fashion which would create a lot of jobs. I had another proposal to take money that wasn’t being put to good use and to proceed to fill in and support the solvency of Social Security and Medicare.

Now, people can argue about whether these were good ideas, but if I had been able to offer one or both of those amendments, I think it would have improved the debate and dialogue and perhaps have resulted in a better piece of legislation.

Mr. UDALL of New Mexico. The fourth provision—and I think the Senator is very right on section 3, but section 4 is the issue of extended debate, and I would like to have the Senator talk about that issue because that is the issue on which you worked the most closely.

The Senator from Oregon has raised the issue of what we have going on right now is what we call a silent debate. It is a silent filibuster. People who say they want to filibuster and object, but then they go home or they go on vacation or something like that. So my colleague has drafted a
provision—he is the architect of this provision in S. Res. 10, if he could just go through that and talk about that section on extended debate, what it does and why it is important to what we are dealing with today.

Mr. MERKELLE: Certainly. This provision says rather than having a situation where a Senator objects to a majority vote and then we delay the work of the Senate for a week, though nobody is here explaining their position to the American public, we would switch to a provision that says if 41 Senators want continued debate on a bill, we will get continued debate on a bill. We will have debate on a bill, not silence.

Currently, we have the hidden or the silent filibuster. With this, we would create the public or the talking filibuster. To give a sense of the numbers on this, these blue bars represent filibusters during the last 2-year period. During the first 6 months 33, 34 in the second, 36 in the third 36 months, and then 33. I think that is 136 total filibusters in a 2-year period.

This is why we didn't have any appropriations bills. This is why we didn't have a budget. This is why we didn't deal with the House of Bills. And this is why we didn't get nominations done and advice and consent on them.

Is this the way the Senate has always operated? Absolutely not. In the last few years there has been a huge change in how the Senate has functioned. So let's take a look at the average per year.

In the 1900–1970 period, the average was one filibuster per year. In the 1970s, the average was 16 filibusters per year. In the 1980s, 21 filibusters per year; average; in the 1990s, 36 filibusters per year, average; in the 2000s, 2000–2010, 48 filibusters per year; and from 2009 to 2010, this last session, an average of 68. There were 136 total.

So from this chart the growing dysfunction. There was always a social contract that existed in which an individual Senator didn't exercise his or her power to object to a simple majority vote unless they thought it was an issue of huge consequence. Maybe that would occur once or twice in a career, but not routinely week after week. But that social contract has been eliminated. The filibuster was honoring the right of every Senator to be heard; that we were not going to hold a vote until every Senator had his or her say so we could be fully informed and have a full dialogue. It is that reciprocal respect that is being routinely disregarded and abused on the floor of the Senate for children.

Many of us have an image of the filibuster that comes from the movie, “Mr. Smith Goes to Washington.” Here is Jimmy Stewart playing the character of Jefferson Smith, and he comes to defend a corrupt action and to stop the government from being what it should be. He talks through the night, and there are many forces assaulting him, but Jimmy Stewart is going to stay on the Senate floor and he is going to tell the American people what he is fighting for and why. This is the talking filibuster, where you don't object and go away and leave the Senate suspended. You don't vote for additional debate and then not show up to this floor and you hold the floor and you join with other partners to hold the floor in order to explain why you are holding up the Senate and to carry on the debate, to have that additional debate you hold the Senate floor.

So the talking filibuster is almost that simple—it replaces the silent filibuster with the talking filibuster. The result is two critical things: First of all, transparency and accountability with the American public. The public can see what you are saying on the floor of the Senate and can say you are a hero or you are a bum. They can agree with you or they can disagree, but it is visible, not hidden.

The second benefit to each Senator has to expend time and energy to carry out a filibuster, so this will strip away all these frivolous filibusters that are done for no other reason than to prevent the Senate from being able to carry on with its responsibilities.

Mr. UDALL of New Mexico. Let me also say one thing about the talking filibuster that hit me, and that is bipartisanship. As we know, both of us, I think, there was a floor when Senator Arlen Specter gave his farewell address. I believe the President Officer was also here. Senator Specter served in the minority for 2 years and then was in the majority for almost 2 years. He came forward with a proposal where he was calling for the same thing—a talking filibuster, whether he was on the minority side or the majority side.

So I think that just demonstrates that each of these provisions has bipartisan support in it.

We don't think this debate is about partisanship. We don't think it is about a power grab. We don't think it is about the Senate from being able to carry on with its responsibilities. As Senator Arlen Specter said, the Senate work better. When we say “the Senate work better,” we are talking about it working better for the American people.

I think if we did the oversight of government when it comes to appropriations bills, a budget, getting the budget out on time, getting appropriations bills done on time, that does a lot to make sure the public's money is well spent, and that is something I hear a lot about back home.

I will ask unanimous consent to have printed in the RECORD a Republican Policy Committee paper titled “The Constitutional Option: The Senate's Power To Make Procedural Rules by Majority Vote,” dated April 25, 2005.

We keep hearing that any use of the constitutional option is simply a power grab by Democrats that is simply not true—and a 2005 Republican Policy Committee memo provides some excellent points to rebut the power grab argument.

Let me read part of the 2005 Republican memo and I will ask that the entire memo be printed in the RECORD:

This constitutional option is well grounded in the U.S. Constitution and in Senate history.

The Senate has always had, and repeatedly has exercised, the constitutional power to change the Senate's procedures through a majority vote. Majority Leader Robert C. Byrd used the constitutional option in 1977, 1979, 1980, and 1987 to establish precedents changing Senate procedures during the middle of a Congress. And the Senate several times has changed its Standing Rules after the constitutional option had been threatened, beginning with the adoption of the first cloture rule in 1917. Simply put, the constitutional option itself is a longstanding feature of Senate practice.

The Senate, therefore, has long accepted the legitimacy of the constitutional option. Through precedent, the option has been exercised and Senate procedures have been changed. At other times it has been merely threatened, and Senators negotiated textual rules changes through the regular order. But regardless of the outcome, the constitutional option has played an ongoing and important role.

The memo goes on to address some “Common Misunderstandings of the Constitutional Option.” Let me read some of those.

Again, this is a direct quote:

“Senate procedures are sacrosanct and cannot be changed by the constitutional option. This misunderstanding does not square with how the Senate has acted. The constitutional option has been used multiple times to change the Senate's practices through the creation of new precedents. Also, the Senate has changed its Standing Rules several times under the threat of the constitutional option.

The next misunderstanding addressed in the memo is that “Exercising the constitutional option will destroy the filibuster for legislation.”

The Republican rebuttal is:

The history of the use of the constitutional option suggests that this concern is grossly overstated. Senators will only exercise the constitutional option when they are willing to live with the rule that is created, regardless of which party controls the body.

And a final misunderstanding in the memo, and one which the Republicans are happy to use now, is that "the essential character of the Senate will be destroyed if the constitutional option is exercised."

The memo rebuts this by stating:

When Majority Leader Byrd repeatedly exercised the constitutional option to correct abuses of Senate rules and precedents, those illustrative exercises of the option did little to change the basic character of the Senate. Indeed, many observers argue that the Senate minority is stronger today in a body that still allows for extensive debate, full consideration, and careful discussion on all matters with which it is presented.

I ask unanimous consent that the memo be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:
The filibusters of judicial nominations that plagued the 108th Congress created an institutional crisis for the Senate. Until 2005, Democrats and Republicans had worked together to guarantee that nominations considered on the Senate floor received up-or-down votes.

The filibustering Senators are trying to create a precedent—a 60-vote requirement for the confirmation of judicial nominees—contrary to the simple-majority standard that has prevailed since the Constitution's ratification. If the Senate allows these filibusters to continue, it will be acquiescing in Democrats' unilateral change to Senate practice.

The Senate has the power to remedy this situation through the “constitutional option”—the exercise of a Senate majority's constitutional power to define Senate procedures.

The Senate has always had, and repeatedly, exercised, this constitutional option. The majority's authority is grounded in the Constitution, its precedents, and the Senate's past practices.

For example, Majority Leader Robert C. Byrd used the constitutional option in 1977, 1979, 1980, and 1987 to establish precedents that changed Senate procedures during the middle of a Congress.

An exercise of the constitutional option under a new Senate precedent—a 60-vote requirement for the confirmation of judicial nominees—would be both restorative and representative of the Senate's traditional understanding of its constitutional power to define Senate procedures.

Employing the constitutional option here would not affect the legislative filibuster because virtually every Senator supports its preservation. In contrast, only a minority of Senators believes in blocking judicial nominations by filibuster.

The Senate would, therefore, be well within its rights to exercise the constitutional option in order to restore up-or-down votes for judicial nominations on the Senate floor.

EXECUTIVE SUMMARY

This paper proceeds in four parts: (1) a discussion of the basis of the Senate's right to set rules for its proceedings; (2) an examination of past instances when Senate majorities acted to define Senate procedures—even where the written rules and binding precedents of the Senate dictated otherwise; (3) an evaluation of how this history relates to the present impasse regarding judicial nomination filibusters; and (4) a clarification of common misunderstandings of the constitutional option.

The purpose of this paper is not to resolve the political or程序方面的 Senate impasse. Rather, the Senate should exercise the constitutional option, but merely to demonstrate the constitutional and historical legitimacy of such an approach.

The Senate's constitutional power to make rules is the mere background for the Senate's right to set rules for its proceedings. To do so, the Senate exercises the constitutional option in order to restore up-or-down votes for judicial nominations. For example, as recently as March 2000, Majority Leader Trent Lott and Minority Leader Tom Daschle worked together to ensure that judicial nominees Richard Pace and Marsha Benjamin received up-or-down votes, even though Majority Leader Lott and most of the Republican caucus ultimately voted against those nominations.
institutional propriety have primarily governed acceptable Senatorial conduct. It is the departures from these norms of conduct that have precipitated institutional crises that require the Senate to respond.

The Senate's Constitutional Option to Alter Operation of Senate Rules

The Senate is a relatively stable institution, but its norms of conduct have sometimes conflicted with some instances. A majority of Senators has rejected past practices and bipartisan understandings and exploited heretofore "off limits" opportunities to obstruct Senate business. For times, a minority of Senators has abused the rules and proceeded in a manner that violates Senators' reasonable expectations of proper conduct. The Senate's great respect for the right to debate has not prevented a minority of Senators from abusing the Senate's longstanding rules and procedures, and similarly disposed of them. No appeals could be taken because any appeal was mooted when Majority Leader Byrd secured his precedent to call up additional amendments.13 This was the constitutional option in action. Many ingenious methods were an abuse of Senate Rule XXII. Byrd concluded in this context that these tactics were an abuse of Senate Rule XXII. His response was to make a point of order under Rule XXII to rule out of order all amendments which are dilatory or which do not pertain to the matter then under debate. Senator Byrd then voted to sustain the motion to table the appeal. In so doing, the Senate set a precedent that ran directly contrary to the Senate's longstanding procedures which required Senators to raise points of order to enforce Senate rules. Now, under this precedent, the Chair would be empowered to take the initiative to rule on questions of order in a post-cloture environment.

The reason for Majority Leader Byrd's tactic immediately became clear. He began to call up each of the amendments that had been filed post-cloture, and the Chair instantly ruled them out of order. There was some reading of each amendment (which would have been dilatory in itself) and there were no roll call votes. The Majority Leader then exercised his right of preferential recognition to remove all Senate amendments, unlike any other non-debatable motion, and similarly disposed of them. No appeals could be taken because any appeal was mooted when Majority Leader Byrd secured his precedent to call up additional amendments.11

This was the constitutional option in action. Majority Leader Byrd did not follow the regular procedure to amend the Senate Rules in order to block these tactics. Instead, he used a simple point of order that cut off the ability of a minority of Senators to add a new layer of obstruction to the legislative process. His method was consistent with the Senate's constitutional authority to establish procedure. 1979—Majority Leader Byrd Exercised the Constitutional Option to Alter Operation of Rule XVI (Limiting Amendments to Appropriations Bills)

Majority Leader Byrd used the constitutional option against a non-debatable motion to block legislation on appropriations bills.12 Standing Rule XVI barred Senate legislative amendments to appropriations bills. By precedent, however, amendments were not impermissible when offered as germane modifications of House legislative provisions. Thus, when the House acted first and added newlayer of obstruction to the legislative process, Senators could respond by offering legislative amendments to the House's legislative language. While another Senator raised the point of order, the Senator offering the authorizing language could respond with a defense of germaneness. And, by the express language of Rule XVI, that defense need not be submitted to the Senate and decided without debate. By enabling the full Senate to vote on the germaneness defense without getting a ruling from the Presiding Officer first, the legislative amendment's sponsor avoided having to overturn the ruling of the Chair and create any formal precedents in doing so. The Senate's right to legislation that is part of the appropriations process due to legislative amendments, and it was happening pursuant to Senate rules that plainly permitted these tactics.

Majority Leader Byrd's exercise of the constitutional option to overturn the plain text of Rule XVI and strip the Senate of its ability to decide questions of germaneness in this context. Senator Byrd's mechanism was similar to the motion he employed in 1977: he made a point of order that "this is a misuse of precedents of the Senate, and the Senate can't be swayed by precedent on which this amendment could be germane, and that, therefore, the Chair is required to rule on the point of order as to its being legislation that would have to be submitted to the U.S. Supreme Court in 1994. Without Majority Leader Byrd's exercise of the constitutional option, it is almost certain that Justice Breyer would not be on the Supreme Court today.
A fourth exercise of the constitutional option came in 1967 when Senator Byrd was once again Majority Leader. The controversy in question involved an effort by Majority Leader Byrd to proceed to consider a particular bill, an effort that had been frustrated because of Majority Leader Byrd’s objections each time he moved to proceed. To thwart his opponents, Majority Leader Byrd sought to use a special feature of the Senate Rules for cloture on one of the Senate’s own rules (the first two hours of the Legislative Day).

Under Rule VIII, a motion to proceed to an item on the Legislative Calendar that is not yet pending on the Calendar is non-debatable. This feature of the rules gives the Majority Leader significant power to set the Senate agenda due to his right to preferential recognition (which, itself, is a creature of mere custom and precedent). Such a motion cannot be made, however, until the Senate Journal is approved and Morning Business is thereafter concluded (i.e., the first of the two hours has passed). Meanwhile, the clock runs on the Morning Hour while that preliminary business takes place. When the Morning Hour is over, a motion to proceed once again becomes debatable and subject to filibuster. This was the feature of the Morning Hour that Majority Leader Byrd believed would enable him to proceed to the bill in question.

Majority Leader Byrd’s plan was complicated, however, when objecting Senators forced a call vote on the approval of the Journal, as was their right under the procedures and practices of the Senate. Rule XII provides that during a roll call vote, if a Senator declines to vote, he or she must state a reason for being excused. The Presiding Officer then must put a non-debatable question to the Senate as to whether the Senator should be excused from voting. When Majority Leader Byrd moved to approve the Journal, one Senator declined to vote and sought to be excused. Following Rule XII, the Presiding Officer put the question directly to the Senate—should the Senator be excused?—but during the roll call on whether the first Senator should be excused, another Senator objected that he wished to be excused from voting on whether the first Senator should be excused. The Chair was likewise obliged to put the question to the Senate. As it happened, another Senator announced he wished to be excused from that vote. There were four roll call votes then underway—the original motion to approve the Journal, and three objections on whether the Senator could be excused. If Senators persisted in this tactic, the time it took for roll call votes would cause the Morning Hour to expire. Absent a cloture vote, Majority Leader Byrd would lose his ability to move to proceed to his bill without debate. All this maneuvering was wholly consistent with the Standing Rules of the Senate.

Majority Leader Byrd countered with a point of order, arguing that the requests to be excused were, in fact, little more than efforts to filibuster the bill vote on approval of the Journal. His solution was to exercise the constitutional option: to use majority-supported Senate precedents to change the Standing Rules of the Senate. In three subsequent party-line votes, three new precedents were established: first, that a point of order could be used to request excusal from voting on a motion to approve the Journal (or a vote subsided by it) “when they are obviously done for the purpose of delaying the announcement of the vote on the motion to approve the Journal, are out of order;” and third, that a Senator has a “limited time” to explain his reason for not voting by speaking indefinitely when recognized to state his reason for not voting. Majority Leader Byrd had crafted these new precedents through the Senate Rules, and they were adopted by a partisan majority without following the procedures for rule changes provided in Rule XXII. Yet by exercising within the Senate’s constitutional power to devise its own procedures these three new precedents provide a routine method of stopping off-post-cloture procedures.

This 1967 circumvention offers a very important precedent for the present difficulties. Majority Leader Byrd established that a majority could restrict the rights of individual Senators outside the cloture process if the majority concluded that the Senators were acting in a purely “dilatory” fashion. Previous to that day, dilatory tactics were only out of order after cloture had been invoked. Additional Senate Endorsements of the Constitutional Option

The Senate also has endorsed (or acted in response to) some version of the constitutional option several other times over the past 90 years, including 1979. The original cloture rule, adopted in 1917, itself appears to be the result of a threat to exercise the constitutional option. Until 1917, the Senate routinely filibustered; although one had been discussed since the days of Henry Clay and Daniel Webster. The ability of Senators to filibuster any effort to create a cloture rule put the body in a quandary: debate on a possible cloture rule could not be forestalled without some form of cloture devices.

The logjam was broken when first term Senator Thomas Walsh announced his intention to exercise a version of the constitutional option that would create a cloture rule. His method was to propose a cloture rule and forestall a filibuster by asserting that the Senate could operate under general parliamentary law while considering the proposed rule. Doing so would permit the Senate to avail itself of a motion for the previous question to terminate debate—a standup vote on general parliamentary law. In this climate, Senate leaders quickly entered into negotiations to craft a cloture rule. Negotiators produced a rule that was adopted by a Senate majority, excluding those Senators choosing not to filibuster. But it was only after Senator Walsh made clear that he intended to press the constitutional option that the negotiations bore fruit. As Senator Clinton Anderson would remark in 1953, “Senator Walsh won without firing a shot.”

The same pattern repeated in 1959, 1975, and 1979. In each case, the Senate faced a concerted effort by an apparent majority of Senators to exercise the constitutional option on a cloture rule. In 1959, some Senators threatened to exercise the constitutional option in order to change the cloture requirements of Rule XXII. Then-Majority Leader Lyndon Johnson preempted its use by offering a modification to Rule XXII that was adopted through the regular order. In 1975, the Senate three times formally endorsed the constitutional option by repealing precedents aimed at facilitating rule changes by majority vote, although the ultimate rule change (also to Rule XXII) was implemented through the regular order after the off-the-floor negotiations. And in 1979, Majority Leader Byrd threatened to use the constitutional option unless the Senate consented to a reorganization of some changes to post-cloture procedures. The Senate acquiesced, and the Majority Leader did not need to use the constitutional option as he had in the other cases discussed above.

The Senate, therefore, has long accepted the legitimacy of the constitutional option. The last time Majority Leader Byrd exercised it, cloture rules and Senate procedures have been changed. At other times it has been merely threatened, and Senators negotiated textual rules changes through the regular order. Regardless of the outcome, the constitutional option has played an ongoing and important role.

The Judicial Filibuster and the Constitutional Option

The filibusters of judicial nominations during the 108th Congress were unprecedented in Senate history. While cloture votes had been necessary for a few nominees in previous years, leaders from both parties consistently worked together to ensure that nominees who reached the Senate floor received up-or-down votes. The result of this bipartisan cooperation means that no judicial nominee with clear majority support had ever been defeated due to a refusal by a Senate minority to permit an up-or-down floor vote, i.e., a cloture vote.

The best illustration of this traditional norm is the March 2000 treatment of President Bill Clinton’s nominations of Richard Paez and Martha Berzon to the U.S. Court of Appeals for the Ninth Circuit. Those nominations reached the Senate floor, Majority Leader Trent Lott, working with Democratic Tom Daschle, filed cloture before any filibuster could materialize. Republican Judiciary Chairman Orrin Hatch likewise fought to preserve Senate norms and traditions, arguing that it would be “a travesty if we establish a routine of filibustering judges.” Moreover, as a further testament to the bipartisan opposition to filibusters for judicial nominations, more than 20 Republicans opposed those nominations. And who would vote against them nonetheless supported cloture for Mr. Paez and Ms. Berzon, and cloture was easily reached. Had every Senator who voted against Mr. Paez’s nomination likewise voted against cloture, cloture would not have been invoked. Thus, as recently as March 2000, more than 80 Senators rejected cloture on first nominations of judicial nominations. If the new judicial nomination filibusters are accepted as a norm, then the Senate will be exploiting this historical charting a new course.

It is not only the Senate norm regarding not filibustering judicial nominations that risks being transformed, but the effective construction of the Senate’s interpretation of judicial nominations. There can be no serious dispute that the Constitution requires only a Senate majority for confirmation. Indeed, many judicial nominees have been confirmed by fewer than 60 votes in the past—including three Clinton nominees and two Carter nominees. Never has the Senate claimed that a supermajority is necessary for confirmation.

Recently, however, some filibustering Senators have suggested that a failed cloture vote is tantamount to an up-or-down vote on a judicial nomination. The new Senate Minority Leader, Harry Reid, has stated that the 10 filibusters have been “turned down.” Senator Charles Schumer has repeatedly stated that a failed cloture vote is evidence that the Senate has “rejected” a nomination. Senator Russell Feingold decried cloture votes that failed in the 108th Congress as having “been duly considered by the Senate and rejected.” Judiciary Committee Ranking Member Patrick Leahy referred to the filibustering of nominees as having been “effectively rejected.” And in April 2005, Senator Joseph Lieberman

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claimed that 60 votes should be the “minimum for confirmation.” These characterizations illustrate the extent to which the Senate has lost its moorings.

With respect to the majority-vote standard, judicial nominations will require an extra-constitutional supermajority to be confirmed, without any constitutional amendment to a Senate convention supporting that change. Any exercise of the constitutional option would, therefore, be aimed at restoring the Senate’s procedures to conform to its traditional norms and practices in dealing with judicial nominations. It would return the Senate to the Constitution’s majority-vote confirmation standard. And it would return the Senate from the constitutional option to restore the Senate to the Constitution’s majority-vote confirmation standard. And it would return the Senate from the constitutional option to restore the Senate into a “rubber stamp.”

Again, history proves otherwise. The Senate has repeatedly used its constitutional power to reject judicial nominations through straightforward denials of “consent” by up-or-down votes. For example, the Senate rejected Court of Appeals nominations of Robert Bork (1987), G. Harold Carswell (1970), and Clement Haynesworth (1969) on up-or-down votes. Even in the 108th Congress, the Senate voted on the nomination of J. Leon Holmes to a federal district court in Arkansas, five Republicans voted against President Bush’s nominee. Had several Democrats not appeared for Mr. Holmes, he would not have been confirmed. In other words, the Senate still has the ability to work its will in a nonpartisan fashion as long as the minority permits the body to come to up-or-down votes. Members from both parties will ensure that the Senate does its constitutional duty by carefully evaluating all nominees.

CONCLUSION

Can the Senate restore order when a minority of its members chooses to upset tradition? Does the Constitution empower the Senate to act to return the Senate to the Constitution’s majority-vote confirmation standard, and to conform to its traditional norms and practices? The answer to all these questions is a clear yes. The Senate would be acting to return the Senate to the Constitution’s majority-vote confirmation standard, and to conform to its traditional norms and practices. Members from both parties will ensure that the Senate does its constitutional duty by carefully evaluating all nominees.

ENDNOTES

1 144 U.S. 1 (1892).
2 Ballin, 144 U.S. at 6. There is no serious disagreement with the Supreme Court’s conclusion in Ballin. Indeed, Senator Edward Kennedy has said that only a majority is necessary to change Senate procedures. Congressional Record, Mar. 8, 2000, S1297.
3 U.S. Const., art. I, § 5, cl. 1.
4 Ballin, 144 U.S. at 6.
5 Floyd M. Riddick, Senate Parliamentarian, Oral History Interviews (November 21, 1976), Senate Historical Office, Washington, D.C., at 429.
6 Riddick interview at 426.
8 Standing Rule XXI’s standard for cloture—three-fifths of those senators “duly chosen and sworn” (art. I, § 5, cl. 1)—is a clear departure from the Constitution’s requirement that two-thirds of the Senate “consent” to the cloture motion, which in turn is a formula that is consistent with the Constitution’s requirement that two-thirds of the Senate “consent” to the cloture motion.
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40See Record Vote #38 (Oct. 23, 1997) (defeated 42-58); Record Vote #112 (Apr. 8, 1970) (defeated 45-51); Record Vote #135 (Nov. 21, 1969) (defeated 45-55).

41See Record Vote #53 (July 6, 2004) (confirmed 51-46).

Mr. UDALL of New Mexico. I think this shows this isn’t about a power grab; this is about trying to work to make sure the Senate is going to work better for the American people.

The fifth provision of S. Res. 10—and as Senator MERKLEY knows, we are down here today to try to get S. Res. 10, rules changes, onto the Senate floor, and so we are going to be asking unanimous consent for that. But the fifth provision is called postcloture debate on nominations.

Now, what are we talking about? Well, when we have a nomination that comes to the floor—a judicial nomination, an executive nomination—in the rule nominations have 30 hours of postcloture debate. So when you decide to cut off debate, when you get to the point that you say we are going to cut off debate, that 30 hours is normally used for amendments and to work throughout the amendment process.

Well, when you have a nomination, you are not amending a nomination. You are trying to either move forward with an up-or-down vote on the nomination—the person is either voted up or down. It makes no sense to have 30 hours. So the other common sense proposal we have is to shorten that postcloture time to 2 hours, from 30 hours, because there is no reason to amend in that phase.

I know Senator MERKLEY is also familiar with this provision.

Mr. MERKLEY. I think what the Senator from New Mexico has set forward is that we would save 28 hours on each nomination. If the Senate goes around only one time, it is one day. If we are doing 10-hour days, that is almost 3 days. We save 3 days of Senate time that is put to no end. If we do 30 hours a day, it is 3 days. So we would save 28 hours on each nomination.

time again, that really we have not only a constitutional right but a constitutional obligation that, on the first concurring day of the Senate of any Congress, we adopt rules, and we can adopt those rules by majority vote. If they are a constitutional rule, the only way they can change the rules is with 67 votes. The Constitution says and does not say. As the Senator from Iowa has pointed out many times, the Constitution says each body shall adopt its rules. So the Senate can adopt its rules. It does not say in the Constitution that each body shall adopt its rules but it requires a two-thirds vote to change those rules. It doesn’t say that. It says each body shall adopt the rules, and it does not specify that we have to have a supermajority to do so. No other Congress in history has specified a supermajority, if I am not mistaken, in five cases. Obviously, the Framers of the Constitution were quite clear that each Congress could adopt its rules and it could adopt them by a majority vote. Now we have a situation in the Senate whereby we are throttled by rules that do not permit us to change those rules except by a two-thirds vote.

As I said many times, what if the voters of this country decided to elect 90 Senators from the same party, say, the Republican Party. Could they come in and say: We are going to adopt new rules, and from henceforth it is going to take 90 votes to change those rules, knowing that may never happen again in the history of the Senate? Would we ever have 90 Senators from one party. Could they do that? If you accept the logic of what we are working with right now, the answer is yes, we could do that and bind every Senate from then on in perpetuity that the only way they could change the rules would be with 90 votes. We say that wouldn’t happen. Well, what about 67 votes or 75 votes or 78 votes? What is so magic about 67? Where does that magic number come from? It was plucked out of thin air.

That is why I address myself to the issue Senator UDALL has worked so hard on; that is, focusing on the constitutional issue.

Senator MERKLEY, from Oregon, has focused on rule XXII—it is called the filibuster rule—which provides basically that we do not even have to filibuster. In a filibuster, people think they come on the Senate floor, like in the movie, "Mr. Smith Goes to Washington," and they speak and they hold the floor and they can hold the floor until they drop or, if somebody else wants to speak, they can speak. That is what people...
imagine a filibuster to be, and that is what a filibuster used to be. What a filibuster has become is a means whereby the minority can stop us from debating anything. So what has happened to the Senate, supposedly the greatest deliberative body in the world, is we now become the greatest nondelegative body because we do not debate because now a minority can decide what we take up and what we do not take up.

Think about it this way. Under rule XXII, as being used, we can have a supermajority of 60 votes to change those rules—requiring a supermajority to do anything because 41 Senators—a minority—have a supermajority to do anything because 41 Senators—a minority—have the right to veto anything the majority wants to bring up. That is why I first brought up my proposal in 1995, when we were in the minority, because I wanted to make it clear that this was not a means whereby we were trying to grab power or anything. I said, no, this is for the smooth functioning of this place. I predicted at that time, in 1995, and the record is clear—it is in the RECORD—I predicted that unless we do something, the number of filibusters would escalate, it would be an arms race, and that is exactly what has happened—135 last year.

So the Senator from Oregon has said that if we are going to have a filibuster, at least people ought to come on the floor and talk. At least, if you are going to object to a bill and you have a group who is opposed to it, at least stand out here and speak. They don’t have to do that now. They put in quorum calls and walk off the floor, and a minority—if Senators—decides what we take up. They can stop anything.

Think about it this way. For a bill to become law in this country, it requires that it pass the House and the Senate in the same form, and the President has to sign it. Right now, we are constituted and the way we operate in the Senate, 41, a minority in the Senate—regardless of what the House wants to do, regardless of what the President wants to do, and regardless of what the voters may want—can stop it. That turns the whole concept of democracy on its head. I thought the majority rules, with rights to protect the minority. So the minority can offer amendments. I don’t even mind if the minority slow things down but I do not believe a minority ought to have the right to absolutely stop and veto a bill or an amendment from coming to the floor of the Senate, and we would be debating that proposal. That is the way the Senate worked for most of its first two centuries.

In 1953, Senator Anderson put forward a resolution to adopt new rules at the start of Congress. There was a debate on it. Then, eventually, it was tabled. It was tabled by 51. That is what the rule said—51 could table, they could set it aside. He did not get his debate but he got it on the floor of the Senate, and it was debated.

The same thing in 1957, and in 1959, he again did this. In 1961, he did this again, and in that case it was debated on the floor of the Senate. Everyone said: Let’s get the rule out there, let’s hold a debate. Eventually, they referred it to the Rules Committee. Finally, near the end of the cycle, it was moved out of the Rules Committee, back to the floor, the floor voted on it, and the Senate voted on Senator Anderson’s proposal. The result of that debate was that it was tabled, the resolution was tabled. It did not pass. To have the debate is not going to guarantee you are going to win the debate but it is to engage in the deliberation, the exchange of ideas that enables us to capture the challenges we see, the challenges in our country and in this case the challenges with making the Senate function and making things work better.

That goes on. Here we have five times in the course of 12 years that a rule proposal was put on the floor and was debated. It was defeated, but it was put
on the floor under the framework that 51 Members could adopt rules under the Constitution, the constitutional power you have been speaking to so eloquently—for Congress to organize itself—for the House of Representatives to organize itself and for the Senate to organize itself.

I wanted to go over a little bit of that history to say the very fact that we are not at this moment debating a rule proposal is a reflection of the dysfunction of the Senate. A debate on the rule proposal itself reflects the dysfunction of the Senate.

I want to thank you for having engaged in so many years of effort to bring these issues forward. The challenge of fixing the Senate has been engaged in by so many names that I was familiar with growing up, folks such as Senator McGovern, Senator Mondale, Senator Church, Senator Pearson. They all brought their effort to make this body work better. We did have a majority at one point.

But as a chart I put up earlier showed, the congregation and the paralysis from the abuse of the privilege of having yourself heard, making yourself heard before your colleagues, has now compelled us to fix the problem. We fill our constitutional responsibilities and we need to fight hard to try to fix the broken Senate.

Mr. HARKIN. Mr. President, would the Senator yield for a question on that?

Mr. MERKLEY. I would be delighted to do so.

Mr. HARKIN. The Senator is a student of the Constitution. We have all looked at it. We know what it says. I mentioned earlier about the fact that when we come in here, we take an oath of office to uphold and defend the Constitution against all enemies, foreign and domestic, to bear true faith and allegiance to the same. That is our oath of office. True faith and allegiance to the Constitution.

Is it the Senator’s view that perhaps the way the Senate is constructed right now may in some way—I just throw this out—take away my constitutional right to adequately represent my constituents? If it takes a supermajority or if we cannot even change the rules, as the Senator has pointed out, does not this kind of take away some of the constitutional rights and obligations, obligations of a Senator that the Senate has?

Mr. MERKLEY. Well, certainly I will tell you that Senator Byrd stood on this floor and said the Senate cannot be bound by the dead hand of the past. You can imagine that any particularly bizarre rule that might have been passed by our predecessors that damaged our ability to fulfill our constitutional responsibilities would be inappropriate, and we would need to change it. The Constitution empowers us to change it with a simple majority.

So when the point comes that the Senate is not functioning in the fashion it was constitutionally intended to function—that is, a simple majority to pass legislation—then we certainly have to wrestle with whether we are doing our responsibility if we do not fight to make the Senate work better. We have an obligation to this Chamber, and we have an obligation to our respondents, obligations of a Constitution.

Mr. HARKIN. I thank the Senator for his response on that.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. UDALL of New Mexico. Mr. President, I know the Presiding Officer has also been a part of this rules reform effort. We very much appreciate that.

It was mentioned earlier about Senator Byrd. I think one of the most interesting stories about Senator Byrd, I say to Senator HARKIN and Senator MERKLEY, in 1979 when he came to the floor, he was talking about—and we have used this quote many times—the dead hand of the past not being ruled by the dead hand of the past. What was he talking about? He was talking about the idea that one Senate could establish a set of rules and bind future Senates. He gave a passionate speech. We are in the situation that he talked about right now. He said, now we are at the beginning of Congress. This Congress is not obliged to be bound by the dead hand of the past.

Take rule XXXII, which is a different numbered rule today. But, for example, the section of rule XXXII says that: The rules of this Senate shall continue from Congress to Congress until changed in accordance with these rules.

That rule was written in 1859, by the 85th Congress. The 96th Congress is not bound by the dead hand of the 86th Congress. The first Senate—now he talks a little bit about history here, which is very important. The first Senate, which met in 1789, approved 19 rules. That was the First Senate.

Those rules have been changed from time to time, and that portion of the Senate rule XXXII quoted was instituted in 1859. The members of the Senate who met in 1789 and approved that first body of rules did not for one moment think or believe or pretend that all succeeding Senates would be bound by that Senate. The Senate of the 86th Congress could not pretend to believe that all future Senates would be bound by those rules. It would just be as reasonable to say that one Congress can pass a law providing that all future laws have to be passed by a two-thirds vote.

Any member of this body knows that the next—another member of the body knows that the next Congress would not heed that law and would proceed to change it and would vote to repeal it by a majority vote, no doubt about it.

So he says: I am not going to argue the case any further today except to say it is my belief, which has been supported by rulings of three Vice Presidents of both parties and by votes of the Senate, in essence upholding this power and the right of a majority of the Senate to change the rules of the Senate at the beginning of a new Congress.

That is the essence of where we are right today—that we are able, if we have a majority, too, with adopting our rules that are going to function for this session of Congress. That is why we are in such a battle here to try to get those proposals onto the floor. We want to get S. Res. 10. We want to get the talking filibuster proposal. We want to get those put onto the floor so we can have debate, we can have votes. And our understanding is there is going to be objection from the other side.

As Senator HARKIN said earlier, we function here by unanimous consent, and they apparently are not going to give us that consent. I know that Senator HARKIN—changing the subject a little bit here—but both Senators HARKIN and MERKLEY mentioned earlier the whole issue of why we want the Senate to function better, that we have pressing national problems and challenges.

I think one of the Senators who said it last year made a comment in 1971. This is Senator Hart. Senator Phil Hart of Michigan. It still resonates decades later.

The apparent inability of the Senate to take action on our domestic ills, when the needs are so painfully clear, is a basic cause of unrest and disaffection among the citizenry. The imperative of change is obligatory if institutions such as the Senate are to have the capacity to respond well to the complex array of overlapping domestic and international issues.

Long ago Thomas Jefferson said: As new discoveries are made and new truths discovered and manner and opinions change with the change of circumstances, institutions must advance also and keep pace with the times. Institutions must advance also and keep pace with the times.

That is why we are here. We have rules that were adopted long ago that are not working today. You and I have talked several times about, if you want your government to spend money wisely, you want it to be efficient, why do we not give them a budget until halfway through the fiscal year? It makes absolutely no sense.

That is the situation we are in right now. We hold hearings, we bring the agency in, we think we are going to appropriate a certain amount for the floor—by the way, this year we did not have—but last year we did not have a single appropriations bill on the floor. So they think they are going to get one budget. Then when we pass the fiscal year, last October 1, we start the fiscal year, we start into it, we have done a couple of continuing resolutions. A continuing resolution just gives them month-by-month funding. The next continuing resolution does not expire until March. So who would tell any agency at that moment that we are giving you a budget but we are not going to quite tell you what it is, and maybe go month to month...
month, and then about halfway through the year we are going to give you the rest of the budget.

That is not the way to take care of the people's money. It is not the way to be efficient. It is not the way to make the people's money as well spent. I think it is important that we do that work, the work of appropriations bills.

Of the Senators who are on the floor right now, Senator Harkin is an appropriation expert. You know, an appropriation bill to the floor and how the 100 Senators take a look at the appropriations bill, take a look at what is working in that department and what is not, and how we move down the road with that particular set of policy initiatives and programs, that is something the agency pays tremendous attention to, those amendments that are put in, the arguments that are made. And we are neglecting all of that now.

Last year we did not do a single appropriation bill. I think it is important that we do that work, the work of appropriations bills. In my understanding, the Senate does not do them. We are going to do one of these continuing resolutions or an omnibus bill.

For the first time in I do not know how long, last year the House gave up doing appropriations bills. So here, one of our functions as a legislative body, what we all call the power of the purse, tremendously important, that power of the purse has been emasculated, it has been warped beyond recognition to the point where I think we are dysfunctional, the agencies are dysfunctional, and we have got to get it all back.

I know the chairman of the Judiciary Committee has outlined a number of times—and I find it appalling that when I was over in the House. We would say: Well, why are we even passing the appropriations bills? The Senate does not do them. We are going to do one of these continuing resolutions or an omnibus bill.

I harken back when I was a youngster here in growing up, I was about 12 years old when my father became Secretary of the Interior. Here you have only half of the people in place in the Federal Government. I remember my dad, as Secretary of the Interior, telling me when I would travel home: Tom, I have my whole team in place, virtually whole team in place in 2 weeks.

So he had his top people. He was there to carry out policy, ready to carry out policy. That is what policy is about. What the Senate is doing. The Senate does not do it. We are doing one of these continuing resolutions or an omnibus bill.

Mr. MERKLEY. Mr. President, it is quite a contrast that the Senator is up here trying to perform the actions of the President's policy initiatives at the Department of Interior. I remember, we had holes, we had a variety of things going in the Department of Interior.

We had a very talented woman from New Mexico who was going to become the Solicitor, who had moved her young family to Washington. They had a 3-month hold on her nomination. Nobody could ever figure out why. But she was finally allowed to become the Solicitor general when these things got resolved.

With all of these kinds of things, from holds to the constant filibuster without any real debate, have slowed down the government in a significant way and prevented us from doing the important oversight job we need to do.

I know the Senator from Oregon has other comments he would like to make.

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full debate on the talking filibuster. I know my colleague is waiting to offer a unanimous consent request to have resolution No. 10 considered before this Chamber. I think we have pretty well laid out the reasons we think this debate is important, and we cannot get to debate without putting forward a unanimous consent request and having it concurred in or blocked by objection. I will see if my colleague from New Mexico wishes to make any more comments. If not, I will offer my unanimous consent request, and ask my best colleagues to come and either endorse or object.

Mr. UDALL of New Mexico. Mr. President, I am also waiting. Senator MERKLEY is waiting to put in his unanimous consent request on the talking filibuster proposal which goes to the heart of the problem we have today. One of the things I have learned the last 2 years in the Senate is that when 41 Senators vote for more debate, that is happening. For example, when 41 Senators vote for more debate, 41 of them, then we don’t get more debate. A lot of times we are in quorum calls. A lot of times if we have a live quorum, we pull 51 Senators over to the floor to try to conduct any business. That is the situation we are in today. That is what the talking filibuster goes to. It goes to dealing with that situation. How does it deal with it? If 41 Senators vote for more debate, if they say to the other 59 Senators they want more debate, if they say to them, ‘Senator Stewart would be able to sleep someplace to keep that live quorum going.’ But in the modern Senate, with everything going on, it is a tremendously unfair advantage for one side to have a Senator and the other side have to have 51 in order to try to conduct any business. That is the situation we are in today. What is the talking filibuster is about. It is very difficult in the modern Senate to keep 51 Senators here surrounding the floor. In the old days, they used to pull out cots and stay through the night so that Senators could be able to make an observation: Is this debate educing the public? Is it moving legislation design to waste time? Is it moving things forward, or is it just a filibuster to block legislation? At that point, when the Chair asks: Are any other Senators on the floor who wish to debate, and there is silence, they are then rolled over into what is called post cloture 30 hours.

Mr. MERKLEY. So if I might explain, if there is something critical to my State, the talking filibuster enables me to find a couple of other Senators who share my views. Perhaps they have similar issues in their States. For example, the coast of Oregon don’t want oil companies drilling off our coast. We have a tremendous business in salmon, in ground fish, rock fish. We have a river economy that depends on the migration of salmon up the streams. We have a tourist industry, the most spectacular coastline anywhere in the world, the coast of Oregon. The last thing we want is an accident that puts oil all over our beaches and destroys multiple industries. So if there was a bill on the floor that said we are going to drill for oil off the coast of Oregon, and if I believed that was a huge mistake, then I could organize with other Senators and be here day and night to block that misguided legislation. In that sense we are not changing the number. It still takes 60 Members to close debate.

We protect the voice of the minority. We say two Members could continue a debate day and night. For that matter, one could, but eventually one is going to collapse on the floor like Jimmy Stewart did. This is important to note because the talking filibuster is about taking away frivolous objections that paralyze the Senate and prevent it from doing its responsibilities on advise and consent and considering regular bills from the House and certainly to be able to get the appropriations bills done, to get the authorization bills done, and so on and so forth.

There may be those who say we oppose the talking filibuster because it takes away the power of the minority to block legislation. Actually, the talking filibuster doesn’t do anything of the kind. It just says that when you block legislation, you have to do it in front of the American people. You have to stand on the floor and make your case.

Mr. UDALL of New Mexico. Mr. President, I wish to make a statement of it. What we have now is Senators leaving. We actually had the case where a Senator wanted the cloture vote to take place but then left and went home. That is a pretty disgraceful situation. I have heard that our good friend, Senator ALEXANDER, is going to join us in a little bit. I know the Senator from Oregon was quoting from a speech he recently gave at the Heritage Foundation on January 4, 2011.

One of the things Senator ALEXANDER said in there that I think we, all three of us, have echoed—Senator HARKIN, Senator MERKLEY, and myself—is: There now is no doubt the Senate has been reduced to a shadow of itself as the world’s greatest deliberative body. As Sen. Arlen Specter said in his farewell address, has been distinctive because of ‘the ability of any Senator to offer virtually any amendment at any time.’ I say to Senator HARKIN, I know he has spoken passionately about the idea of offering amendments, how our democracy has deteriorated in the Senate because it takes now 60 votes—every amendment. I say to the Senator, it did not always used to be like that, did it? I would ask the Senator, did it? The Senate has been here a while. What was the Senate like 10, 15 years ago? Could you get an amendment through with a majority vote?

Mr. HARKIN. Well, if my friend will yield for a response.

Mr. UDALL of New Mexico. Of course.

Mr. HARKIN. Yes, literally up until 4 or 5 years ago you could offer an amendment on the floor, and if you got 51 votes, you won. That happened for well, I have been here, what, 25, 26 years I guess now, and that is the way it has always been. Sometimes there were tough amendments. Sometimes there were tough amendments by Democrats; sometimes there were tough amendments by Republicans. It did not make any difference who was in the majority or the minority.

I do not think people elected us just to have an easy time. It is not to even cast tough votes. Sometimes these are tough votes. But I think the Senator from New Mexico is right. We always operated under the fact that a Senator could offer an amendment. Usually you would enter a time agreement. You would say: How much time do you want? Well, you would have an hour or an hour and a half or 2 hours, something like that. You would have a reasonable time agreement, and you would have debate and then a vote. Sometimes people would move to table it, and that was fine but at least 51 votes decided that.

Now, as the Senator pointed out, you have to have 60 votes for any amendment, a supermajority. For any single amendment you want to bring up on the Senate floor, you now have to have 60 votes. I say to my friend, it was not always like that.

Mr. UDALL of New Mexico. I say to Senator HARKIN, one of the things that happened to us right at the end of the 19th Century was when they put a piece of legislation called the DREAM Act. I believe the majority had 55 votes for the DREAM Act.
Mr. HARKIN. That is right.

Mr. UDALL of New Mexico. Here is a piece of legislation where we were talking about immigrant children—through no fault of their own; they were probably brought in as tiny babies—who have gone home, people say, and have reached the age of adulthood and they have a ceiling on them. They cannot go to college. They do not have Social Security numbers. So we were basically trying to give them a dream they did not have. They could join the military, and after they did their military service get in for citizenship. They could go to college, and if they did well, get in line for citizenship.

In any other country, if you had the two legislative bodies—the House passed it by a majority; we passed it by a big majority, 55 votes—you would have a law. The President would be signing it, and it would be law today.

That is what has happened to this filibuster rule. A lot of the steps we are taking do not necessarily get right to the heart of that, but I think the people understand that part of it. When I have a law passed in the United States, what happens? What is going on? Fifty-five Senators voted for the DREAM Act and it did not become law.

Senator HARKIN. If the Senator will yield, the Senator is absolutely right. I will give another example. As the Senator knows, the Supreme Court decided a case last year that allows certain entities to contribute money to political campaigns, and they do not even have to disclose who they are or how much they give. It is a Supreme Court decision.

Well, the House passed a bill, and public opinion polls show that 80 percent of the people are in favor of what we called the DISCLOSE Act. We did not say they could not give the money. We just said they ought to file: Who are you, and how much money are you giving, and where are you going to spend it?

It passed the House. It came to the Senate. I believe we had 57 votes for that, if I am not mistaken. I could be corrected, but I think it was over 55 votes for that. But it did not pass.

They average American out there would say: Wait a minute. I thought if you got 51 votes, you won. No, no, no. Again, we had to have 60 votes in order to pass the DISCLOSE Act. The President would have signed it into law. The House again. Eighty percent of the American people were for it. But because there was this 60-vote threshold, we did not get it passed.

I see the Senator from Oregon.

Mr. MERKLEY. Well, I say to Senator HARKIN, I think that is a tremendous example. I believe we actually had 59 votes twice.

Mr. HARKIN. I stand corrected.

Mr. MERKLEY. I believe the vote short needed to close the filibuster on the motion to proceed to get to the DISCLOSE Act. So we could not even get onto the bill.

So here is a Supreme Court decision that allows unlimited—unlimited—secret foreign donations. I will tell you, as a red-blooded American, the idea of foreign companies secretly influencing American elections is outrageous, and that is why we should ban a debate on that bill. But, instead, we had 41 Senators who said they wanted further debate, and then they were not willing to stand up on the floor to make their case before the American people. And why did they not do that? And why did the American people not go to the floor, and that is what I am going to ask right now, with my unanimous consent request. We very much appreciate the Senator being here.

Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 10, a resolution to improve the debate and consideration of legislative matters and nominations in the Senate; that there be 6 hours for debate equally divided and controlled between the two leaders or their designees, with no amendments in order; and that upon the use or yielding back of time, the Senate proceed to vote on adoption of the resolution.

The PRESIDING OFFICER. Is there objection?

The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, preserving the right to object, I want to congratulate the Senator from New Mexico. He has been persistent and diligent and enormously well intentioned in this effort throughout the Rules Committee hearings and throughout the floor debate in seeking a way to help make the Senate function better, at the same time preserving the Senate as a forum for deliberation and protection of minority rights.

We have a difference of opinion about whether that is best done by allowing changes of rules by 51 votes or by 67, which is the way the Senate rules currently prescribe. His proposal to change the rules certainly can be considered on the Senate floor in the regular order, and we would be happy to work with him to do that as long as it was by 67 votes.

So because of that difference of opinion, I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Iowa.

UNANIMOUS-CONSENT REQUEST—S. RES. 8

Mr. HARKIN. Likewise, Mr. President, the Senator from Tennessee knows I have been on this issue for a long time. I have a proposal also. Again, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 8, a resolution amending the Standing Rules of the Senate to provide for cloture to be invoked with less than a three-fifths majority. After that I ask additional debate; that there be 6 hours for debate equally divided and controlled between the two leaders or their designees, with no amendments in order; and that upon the use or yielding back of time, the Senate proceed to vote on adoption of the resolution.

The PRESIDING OFFICER. Is there objection?
The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, reserving the right to object, the Senate from Iowa has, for at least since the early 1990s, been forcefully arguing for his position. We have the same difference of opinion fundamentally that I mentioned in connection with Senator Udall’s amendment. We are glad for these rules changes and amendments to come to the floor, but only if they are approved or rejected with the requirement of 67 votes. So for that reason, I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Oregon.

UNANIMOUS-CONSENT REQUEST—S. RES. 21

Mr. MERKLEY. Mr. President, it has been the tradition of this Chamber, when there are rules proposals, to put them on the floor for debate and to hold that debate. Then if the body does not like that, either to defeat them outright or to table them or refer them to committee for further work.

Indeed, under the Constitution, it is in order to have a debate now about a simple majority to amend our rules. The Constitution calls for a super-majority for impeachments, a super-majority for treaties, but it calls for a simple majority to amend our rules and to organize ourselves.

Many Members of this body often talk about the Constitution, and it is the Constitution we are talking about right now when it calls for a simple majority to be able to organize.

So that is why, in 1963, the Senate debated Senator Anderson’s resolution, eventually defeating it by tabling it. That is why, in 1957 and in 1959, they proceeded to put it on the floor—both sides agreeing that it was appropriate under the Constitution to have the debate in this Chamber—and then to either approve or to vote down or to table or to refer to committee. Then, in 1961, Anderson’s rule proposal to make cloture three-fifths present and voting was referred to committee. So it was defeated again, but it was debated and referred to committee. Then the committee returned it to the floor for further debate. No one objected to us holding a debate.

In fact, here is the irony. We are talking about the broken Senate because debate is unable to take place, and this very conversation we are having right now, with proposals to be put on the floor, is being objected to by the other side because they are saying it is not appropriate. But the Constitution says it is appropriate. The tradition of the Senate says it is appropriate.

So I too have a resolution to put on the floor, a proposal for debate. It is the talking filibuster proposal. It is important that Senators not be able to object to the regular order of 51 and then go home or go on vacation and hide from the American people, but that if they believe there should be additional debate, they come to this floor and debate. The people of America believe that is what the filibuster is about: making your case before the American people. Let’s make it so.

Mr. President, I ask unanimous consent that the Senate from Oregon is a former speaker of the House of Oregon, and he has been a long observer of the Senate, having come here first working for Senator Hatfield, and he has been effective and passionate in his views.

Today, I want to make some remarks made by largely Democratic Senators, from 4 or 5 years ago, when some Republicans got the idea that it might be a good idea to make this a more majoritarian body, and Senator Schumer, Senator Reid, Senator Clinton, and Senator Obama all said it would be a mistake.

So although I greatly respect the Senator from Oregon, we have a difference of opinion about whether it is in the best interest of the Senate and of the country to change the rules in this way, so I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Oregon.

Mr. MERKLEY. Mr. President, I thank my colleague from Tennessee for making your case before the people of America, and debate. The people of America believe that is what the filibuster is about: making your case before the American people. Let’s make it so.

Mr. President, I ask unanimous consent that the Senate from Oregon is a former speaker of the House of Oregon, and he has been a long observer of the Senate, having come here first working for Senator Hatfield, and he has been effective and passionate in his views.

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So although I greatly respect the Senator from Oregon, we have a difference of opinion about whether it is in the best interest of the Senate and of the country to change the rules in this way, so I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Oregon.

Mr. MERKLEY. Mr. President, I thank my colleague from Tennessee for coming to the floor. I applaud his long service.

When I first came to the Senate, Senator Hatfield asked me to bring greetings to his former colleagues, and I had the chance to sit down with Senator Alexander to convey those greetings and to work with him on some projects, including the advocacy for electric vehicles. It is good for the American economy, good for the strategic positioning of America in terms of our consumption of energy, and certainly good for the environment.

I wish to note that while we disagree on this, I believe it is an act of humanity the way it should happen. We should come to the floor and share our respective views, disagree with each other, make our points. I believe, at this moment, we should be on a rule. We should be debating it. My colleague has expressed his difference in a very gracious and respectful manner, and that, too, should be a factor of Senate dialect, so I thank the Senator.

I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.
Subpart A—Matters of General Applicability to All Regulations Promulgated under Section 4 of the VEOA

Sec. 1.101 Purpose and scope.

1.102 Definitions.

1.103 Adoption of regulations.

1.104 Coordination with section 225 of the Congressional Accountability Act.

SEC. 1.101. PURPOSE AND SCOPE.

(a) Section 4(c) of the VEOA. The Veterans Employment Opportunities Act (VEOA) applies to employees of Congress and shall be applied consistent with the rules made by the VEOA. The purpose of subpart E of these regulations is to ensure that the principles of the veterans’ preference laws are integrated into the employment and retention policies and processes of those employing offices with employees covered by the VEOA, and to provide for transparency in the application of veterans’ preference rights to covered employees.

(b) Purpose of regulations. The regulations set forth herein are the substantive regulations that the Board of Directors of the Office of Compliance has promulgated pursuant to section 4(c)(4) of the VEOA, in accordance with the rulemaking procedure set forth in section 304 of theCAA (2 U.S.C. § 1384).

The purpose of subparts B, C, and D of these regulations is to define veterans’ preference and the administration of veterans’ preference as applicable to Federal employment in the Legislative branch. (3 U.S.C. § 2108, as applied by the VEOA).

The purpose of subpart E of these regulations is to ensure that the principles of the veterans’ preference laws are integrated into the employment and retention policies and processes of those employing offices with employees covered by the VEOA, and to provide for transparency in the application of veterans’ preference rights to covered employees.

1.102 Definitions.

Except as otherwise provided in these regulations, as used in these regulations:

(a) “Accredited health care provider” means any provider that is a doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) within the meaning of section 3132(a)(2) of title 5, United States Code. The term covered employee includes any employee of (1) the House of Representatives but not the Office of the Architect of the Capitol; (2) the Office of the Architect of the Capitol; (3) the Office of Congressional Accessibility Services; (4) the Congressional Budget Office; (5) the Office of the Attending Physician; or (6) the Office of Compliance, but does not include any employee: (aa) whose appointment is made by the President with the advice and consent of the Senate; (bb) whose appointment is made by a Member of Congress or by a committee or subcommittee of either House of Congress or a joint committee of the House of Representatives and the Senate; or (cc) who is appointed to a position, the duties of which are equivalent to those of a Senior Executive Service position (within the meaning of section 3132(a)(2) of title 5, United States Code).

Accordingly, these regulations shall not apply to any employing office that only employs individuals excluded from the definition of covered employee.

SEC. 1.102. DEFINITIONS.

H Regs: (c) Scope of Regulations. The definition of “covered employee” in Section 4(c) of the VEOA limits the scope of the statute’s applicability within the Legislative branch.

The term “covered employee” excludes any employee: (1) whose appointment is made by the President with the advice and consent of the Senate; (2) whose appointment is made or directed by a Member of Congress within an employing office, as defined by Sec. 101(9)(A–C) of theCAA, 2 U.S.C. § 1301 (9)(A–C) or; (3) whose appointment is made by a committee or subcommittee of either House of Congress or a joint committee of the House of Representatives and the Senate; or (4) who is appointed pursuant to section 105(a) of the Second Supplemental Appropriations Act, 1978, or (5) who is appointed to a position, the duties of which are equivalent to those of a Senior Executive Service position (within the meaning of section 3132(a)(2) of title 5, United States Code).

Accordingly, these regulations shall not apply to any employing office that only employs individuals excluded from the definition of covered employee.

The term covered employee means any employee of (1) the Office of Congressional Accessibility Services; (2) the Capitol Police; (3) the Congressional Budget Office; (4) the Office of the Architect of the Capitol; (5) the Office of the Attending Physician; or (6) the Office of Compliance, but does not include any employee: (aa) whose appointment is made by the President with the advice and consent of the Senate; (bb) whose appointment is made by a Member of Congress or by a committee or subcommittee of either House of Congress or a joint committee of the House of Representatives and the Senate; or (cc) who is appointed to a position, the duties of which are equivalent to those of a Senior Executive Service position (within the meaning of section 3132(a)(2) of title 5, United States Code).

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any such individual employed by any entity listed in subparagraphs (3) through (8) of paragraph (g) above nor any individual described in subparagraphs (aa) through (ee) of paragraph (g) of section 1.102 of the regulations classified with an "S" classification.

 Sec. 1.105 Responsibility for administration of veterans' preference. Applicants for appointment to a covered position and covered employees may contest adverse veterans' preference determinations, consistent with the VEOA.

 Sec. 1.106 Procedures for bringing claims under the VEOA. In each appointment action for the positions of custodian, elevator operator, guard, and messenger (as defined below and collectively referred to in subsection (a) as "reicted positions") employing offices shall restrict competition to preference eligible applicants as long as qualified preference eligible applicants are available. The provisions of sections 1.109 and 1.110 below shall apply to the appointment of a preference eligible applicant to a restricted covered position. The provisions of section 1.108 shall apply to the appointment of a preference eligible applicant to a non-restricted covered position.
Guard—One whose primary duty is the assignment to a station, beat, or patrol area in a Federal building or a building under Federal control to prevent illegal entry of persons or property, to maintain physical control of access or egress thereto, and to perform other duties as necessary to secure safety and security of the building or facility. Duties may include the following: (a) securing entrances and exits; (b) removing trespassers; (c) arresting, detaining, and arresting persons suspected of destroying property or engaging in illegal or disorderly conduct; (d) participating in security policies, procedures, and activities; (e) participating in criminal investigations; (f) participating in all criminal or civil legal proceedings; (g) participating in all criminal or civil legal proceedings; (h) participating in all criminal or civil legal proceedings; (i) participating in all criminal or civil legal proceedings; (j) participating in all criminal or civil legal proceedings; (k) participating in all criminal or civil legal proceedings; (l) participating in all criminal or civil legal proceedings; (m) participating in all criminal or civil legal proceedings; (n) participating in all criminal or civil legal proceedings; (o) participating in all criminal or civil legal proceedings; (p) participating in all criminal or civil legal proceedings; (q) participating in all criminal or civil legal proceedings; (r) participating in all criminal or civil legal proceedings; (s) participating in all criminal or civil legal proceedings; (t) participating in all criminal or civil legal proceedings; (u) participating in all criminal or civil legal proceedings; (v) participating in all criminal or civil legal proceedings; (w) participating in all criminal or civil legal proceedings; (x) participating in all criminal or civil legal proceedings; (y) participating in all criminal or civil legal proceedings; (z) participating in all criminal or civil legal proceedings.

Messenger—One whose primary duty is the supervision or performance of general messengers in a Federal building or a building under Federal control to perform other duties as necessary to secure safety and security of the building or facility. Duties may include the following: (a) delivering messages; (b) answering call bells; (c) delivering mail; (d) delivering packages; (e) performing other duties as necessary to secure safety and security of the building or facility.

SEC. 1.108. VETERANS’ PREFERENCE IN APPOINTMENTS TO NONRESTRICTED COVERED POSITIONS.

(a) Where an employing office has duly adopted a policy requiring the numerical scoring or rating of applicants for covered positions, the employing office shall add points to the earned ratings of those preference eligible applicants who receive passing service examination scores, in a manner that is proportionately comparable to the points prescribed in 5 U.S.C. §3309. For example, five preference points shall be granted to each preference eligible applicant in a 100-point system, one point shall be granted in a 20-point system, and so on.

(b) In all other situations involving appointments to covered positions, employing offices shall consider veterans’ preference eligibility as an affirmative factor in the employing office’s determination of who will be appointed from among qualified applicants.

SEC. 1.109. CREDiting EXPERIENCE IN APPOINTMENTS TO COVERED POSITIONS.

When considering applicants for covered positions, experience is any length of time spent performing duties of a kind and difficulty of which is substantially equivalent to those of the position to which the applicant is being considered. Experience shall be credited toward meeting the required qualifications of a preference eligible applicant if it is demonstrated that the applicant was physically able to perform efficiently the duties of the position; and if, including any recommendation of an accredited physician submitted by the preference eligible applicant, that an applicant to whom it has made a conditional offer of employment is physically able to perform efficiently the duties of the position; and who has a compensable service-connected disability of 30 percent or more.

Should the preference eligible applicant make a timely response, the highest ranking individual or group of individuals with authority to make employment decisions on behalf of the employing office shall render a final determination of whether the preference eligible applicant to perform the duties of the position, taking into account the response and any additional information provided by the preference eligible applicant. When the employing office has completed its review of the proposed disqualification on the basis of physical disability, it shall make findings to the preference eligible applicant.

(c) Nothing in this section shall relieve an employing office of any of its obligations to mitigate the effects of disqualification.

SEC. 1.110. WAIVER OF PHYSICAL REQUIREMENTS IN APPOINTMENTS TO COVERED POSITIONS.

(a) Subject to (c) below, in determining qualifications of a preference eligible applicant for appointment, an employing office shall waive:

(1) with respect to a preference eligible applicant, requirements as to age, height, and weight, unless an accredited examiner is essential to the performance of the duties of the position; and

(2) with respect to a preference eligible applicant, requirements regarding the physical fitness necessary to perform employment, medical conditions necessary to perform employment, or physical requirements necessary to perform employment.

(b) Subject to (c) below, if an employing office determines, on the basis of evidence be-
be extended if placement is made under this part to a program accorded low priority by the employing office, or to a vacant position.

SEC. 1.112. APPLICATION OF PREFERENCE IN RE-TREADS IN FORCE.

Prior to carrying out a reduction in force that will affect covered employees, employing offices shall determine which, if any, covered employees of a particular group of competing covered employees are entitled to veterans’ preference eligibility status in accordance with these regulations. In determining which employees will be retained, employing offices will treat veterans’ preference as the controlling factor in retention decisions among such competing covered employees. The physical requirements of the covered position, the physical requirements of the covered position, the employment office shall notify the preference eligible covered employee of the reasons for the determination and of the right to respond and to submit additional information to the employing office within 15 days of the date of the notification. Should the preference eligible covered employee make a timely response, the highest ranking individual or group of individuals with authority to make employment decisions on behalf of the employing office, shall render a final determination of the physical ability of the preference eligible covered employee to perform the duties of the covered position, taking into account the evidence before it, including the response and any additional information provided by the preference eligible. When the employing office has completed its review of the proposed disqualification on the basis of physical disability, it shall send its findings to the preference eligible covered employee.

(c) Nothing in this section shall relieve an employing office of any obligation it may have pursuant to the Americans with Disabilities Act (42 U.S.C. § 12101 et seq.) as amended by section 192(a)(3) of the CAA, 2 U.S.C. § 1302(a)(3).

SEC. 1.113. CREDIBILITY EXPERIENCE IN REDUCTIONS IN FORCE.

In computing length of service in connection with a reduction in force, the employing office shall provide credit to preference eligible covered employees as follows:

(a) A preference eligible covered employee who is not a retired member of a uniformed service is entitled to credit for the total length of time in active service in the armed forces.

(b) A preference eligible covered employee who is a retired member of a uniformed service is entitled to credit for:

(1) the length of time in active service in the armed forces during a war, or in a campaign or expedition for which a campaign badge has been authorized; or

(2) the total length of time in active service in the armed forces if he is included under 5 U.S.C. § 5350(a)(3)(A), (B), or (C); and

(c) A preference eligible covered employee is entitled to credit for:

(1) service rendered as an employee of a county committee established pursuant to section 8(b) of the Soil Conservation and Area Conservation Act of 1935 (43 U.S.C. § 748b) as amended by section 102(a)(3) of the CAA, 2 U.S.C. § 1302(a)(3).

SEC. 1.115. TRANSFER OF FUNCTIONS.

(a) When a function is transferred from one employing office to another employing office, each covered employee in the affected position classifications or job classifications in the function that is to be transferred shall be transferred to the receiving employing office for employment in a covered position for which he/she is qualified before the receiving employing office may make an appointment from another position.

(b) When one employing office is replaced by another employing office, each covered employee in the affected position classifications or job classifications in the employing office to be replaced shall be transferred to the replacing employing office for employment in a covered position for which he/she is qualified before the replacing employing office may make an appointment from another source to that position.

Subpart E—Adoption of Veterans’ preference policies, recordkeeping & informational requirements.

Sec. 1.116 Adoption of veterans’ preference policy.

1.117 Preservation of records made or kept.

1.118 Dissemination of veterans’ preference policies to applicants for covered positions.

1.119 Information regarding veterans’ preference determinations in appointments.

1.120 Dissemination of veterans’ preference determinations to covered employees.

1.121 Written notice prior to a reduction in force.

SEC. 1.116. ADOPTION OF VETERANS’ PREFERENCE PRACTICES.

No later than 120 calendar days following Congressional approval of this regulation, each employing office that employs one or more covered employees or that seeks applicants for a covered position shall adopt its written policy specifying how it has integrated the provisions of the Act of 1998 with the Act of 1973 to make its veterans’ preference policy consistent with the Act of 1998 and the regulations issued thereunder. An employing office that employs one or more covered employees or that seeks applicants for a covered position shall adopt its written policy specifying how it has integrated the provisions of the Act of 1998 with the Act of 1973 to make its veterans’ preference policy consistent with the Act of 1998 and the regulations issued thereunder.

(a) An employing office shall state in any announcements and advertisements it makes concerning vacancies in covered positions that the staffing action is governed by the VEOA.

(b) An employing office shall invite applicants for a covered position to identify themselves as veterans’ preference eligible applicants, provided that it in such announcements and advertisements it makes concerning vacancies in covered positions. An employing office shall invite applicants for a covered position to identify themselves as veterans’ preference eligible applicants, provided that it in such announcements and advertisements it makes concerning vacancies in covered positions.

(1) The employing office shall state clearly on any written application or questionnaire used for this purpose that the application or questionnaire is not used, that the requested information is intended for use solely in connection with the employment of veterans and that the application or questionnaire is not used, that the requested information is intended for use solely in connection with the employment of veterans.

(2) The employment office shall state clearly that the veterans’ preference policy is used for this purpose, that it will be kept confidential in accordance with the Americans
with Disabilities Act (42 U.S.C. §12101 et seq.) as applied by section 102(a)(3) of the CAA, 2 U.S.C. §1302(a)(3), that refusal to provide it will not subject the individual to any adverse determination concerning the individual’s status as a preference eligible applicant as a disabled veteran under the VEOA, and that any individual subject to such adverse determination concerning the medical condition or history of an individual will be collected, maintained and used only in accordance with Americans with Disabilities Act (42 U.S.C. §12101 et seq.) as applied by section 102(a)(3) of the CAA, 2 U.S.C. §1302(a)(3); and

(3) the employing office shall provide the following information in its guidances regarding its veterans’ preference policies:

(a) the employing office’s veterans’ preference policy as it relates to appointments to covered positions, including any procedures the employing office shall use to identify preference eligible employee(s); and

(b) the effective date of the action; and

(4) the retention status and preference eligibility of the other employees in the affected position classifications or job classifications within the covered employee’s competitive area, by providing:

(A) a list of all covered employee(s) in the covered employee’s position classification or job classification and competitive area who will be retained by the employing office, identifying those employees by job title only and stating whether each such employee is preference eligible, and

(B) a list of all covered employee(s) in the covered employee’s position classification or job classification and competitive area who will not be retained by the employing office, identifying those employees by job title only and stating whether each such employee is preference eligible; and

(5) a description of any appeal or other rights which may be available.

SEC. 1.120. DISMISSAL OF VETERANS’ PREFERENCE POLICIES TO COVERED EMPLOYEES.

(a) If an employing office that employs one or more covered employees provides any written guidance to such employees concerning employee rights generally or reductions to force, if necessary because of circumstances to which this subsection applies, such written guidance must include information concerning veterans’ preference under the VEOA, as set forth in subsection (b) of this regulation.

(b) Written guidance described in subsection (a) above shall include, at a minimum:

(1) the VEOA definition of “preference eligible” as set forth in 5 U.S.C. §2108 or any superseding legislation, providing the actual, current definition along with the statutory citation;

(2) the employing office’s veterans’ preference policy or a summary description of the employing office’s preference policy as it relates to appointments to covered positions, including any procedures the employing office shall use to identify preference eligible employee(s); and

(3) the employing office may provide other information in its guidances regarding its veterans’ preference policies and practices, but is not required to do so by these regulations.

(4) Employing offices are also expected to answer questions from applicants for covered positions that are relevant and non-confidential concerning the employing office’s veterans’ preference policies and practices.

SEC. 1.121. WRITTEN NOTICE PRIOR TO A REDUCTION IN FORCE.

(a) Except as provided under subsection (c), a covered employee may not be released due to a reduction in force, unless the covered employee and the covered employee’s exclusive representative for collective-bargaining purposes (if any) are given written notice, in accordance with the requirements of paragraph (b), at least 60 days before the covered employee is so released.

(b) Any notice under paragraph (a) shall include—

(1) the personnel action to be taken with respect to the covered employee involved;

(2) the position of the affected employee;

(3) a description of the procedures applicable in identifying employees for release;

(4) the covered employee’s competitive area;

(5) the covered employee’s eligibility for veterans’ preference in retention and how that preference eligibility was determined;

(6) the effective date of the action; and

(7) a statement as to whether the applicant is preference eligible and, if not, a brief statement of the reasons for the employing office’s determination that the applicant is not preference eligible.

(c) Employing offices are also expected to answer questions from applicants for covered positions that are relevant and non-confidential concerning the employing office’s veterans’ preference policies and practices.

SEC. 1.122. CONGRESSIONAL RECORD — SENATE

January 25, 2011

Ms. LANDRIEU. Mr. President, on January 5, 2011, Senator BARBARA MIKULSKI of Maryland became the longest-serving female Senator in the history of our country. Breaking this record, which was set by an extraordinary woman, Senator Margaret Chase Smith of Maine—is only one of many milestones BARBARA MIKULSKI has reached during her tenure in elective office. Additional milestones are: first female Democrat to serve in both Chambers of Congress; the first female Democrat elected to the Senate without succeeding a husband or a father; and the first female to chair the most powerful Appropriations Committee. The history books will rightly mark these achievements for the benefit of generations to come.

In addition, BARBARA MIKULSKI is known and will be remembered as a fierce fighter for the people of Maryland, an advocate for working families, the small business owner, and seniors looking for help and support in their later years. Her advocacy for and in defense of Federal workers is legendary. They may be faceless bureaucrats to some, but to Senator MIKULSKI they are her friends and neighbors. And they most certainly have found a champion in BARBARA MIKULSKI. Every day, she brings that definitive fighting spirit to the Senate, championing the causes she holds dear—women’s health, extended access to higher education, the concerns of our Nation’s veterans and the advancement of our space program, to name just a few. She is renowned in terms of her compassion and tenacity, delivering the respect and appreciation of her constituents and people across the country.

Besides these milestones and significant legislative accomplishments, it is also important to note Senator MIKULSKI’s unique willingness and enthusiasm for mentoring others. I have been the beneficiary of her special attention, guidance and sage advice, as have many of my peers. She has helped us find our footing and navigate the peculiar ways of the Senate. It is truly extraordinary—and one of her most admirable qualities—that someone of her stature, who wields so much influence, always seems to be able to find the time to help and mentor others. In others, women in particular. Senator MIKULSKI is a remarkable leader in that way. She continues to serve as an inspiration to us all. I know she will remain a pathfinder, a visionary and a courageous leader for the people of Maryland and for our Nation. Another Barbara—Barbara Coloroso, the national bestselling author on parenting and teaching—one observed that “the beauty of empowering others is that you can multiply your own gifts and diminish in the process.” That truth holds special meaning for those of us fortunate enough to have been empowered through our association and friendship with the senior Senator from Maryland.

Mr. WHITEHOUSE. Mr. President, as we embark on a new year and a new Congress, I stand here today to congratulate my colleague, BARBARA MIKULSKI, on becoming the longest-serving female Senator in our Nation’s history. Senator MIKULSKI made our country stronger. And in a place where partisan rancor too often rules the day, she has established a legacy of
service that stands as an example to us all.

Her political career began in the late 1960s when she launched a campaign to stop the construction of a highway over historic neighborhoods in Baltimore. She went on to serve as a state legislator, and in 1989, she decided to run for the Baltimore City Council in 1971. Forty years later, and following a successful stint in the U.S. House of Representatives, BARBARA MIKULSKI also blazed an impressive trail. During her 26 years in the Senate, she became the first woman to sit on the Senate Appropriations Committee, the first Democratic woman elected to Senate leadership, and now has crossed yet another milestone, passing Senator Margaret Chase Smith of Maine as the longest serving female Senator.

It is not just the length of her service that we celebrate, it is its quality. No one is bitter at drilling down to the gist of an issue, and expressing it in punchy unforgettable terms. No one cheers us more than when she tells us “to stand tall, square our shoulders, put on our lipstick and rise to the occasion.” She combines the idealism of politics with the proactive abilities of government. As she told me once with a twinkle in her eye, “I’m a reformer, and a bit of a ward heeler once with a twinkle in my eye, ‘I’m a reformer, and a bit of a ward heeler too.’” More than anything, she never forgets that is she a champion for those who need one.

In her years in the Senate, BARBARA MIKULSKI’s dedication to her constituents and women’s rights has been clear: from being a champion of workers’ health issues and abortion rights, to organizing training seminars for women of both parties elected to the Senate, to sponsoring and pushing through the Lilly Ledbetter Fair Pay Act of 2009.

During my 4 years as a U.S. Senator, I have had the great privilege to work with her to pass landmark health care reform legislation out of the HELP Committee. I also serve with her on the Intelligence Committee, and worked closely with her on the Senate Intelligence Committee’s Cyber Task Force to evaluate cyber threats and issue recommendations to the full committee.

And, while Rhode Island and Maryland are hundreds of miles apart, Barbara and her staff are truly my neighbors here in the Senate. Her office is next door to mine in the Hart Building. From a friendly hello to each other as we pass each other as we walk to the Senate floor, to the delicious treats her wonderful receptionist Mrs. O’Malley occasionally makes for our office, it has truly been a pleasure to share our little corner of the Capitol.

I know that all of us here in this Chamber are proud to call “Senator BARB” our colleague and friend as she makes history. Her hard work and independent spirit have enriched the Senate and I wish her all the best in the years to come. On behalf of all Rhode Islanders, I congratulate you for this milestone in our Nation’s history.

REFORM AMERICA’S BROKEN IMMIGRATION SYSTEM ACT

Mr. LEAHY. Mr. President, once again, at the beginning of a new Congress, Majority Leader REID has signaled his intent to improve our Nation’s immigration system with a plan to transform and modernize our laws to meet the needs of today.

I support the majority leader in this effort, as I have now for several Congresses. The American people recognize that our current immigration system is deeply flawed. It is too easily exploited by unscrupulous employers and others who seek to profit from the vulnerabilities of those seeking work and a new life. We can and should put an end to the too common abuses and transform our system into an orderly, secure, and efficient way to strengthen our economy and fulfill our humanitarian traditions.

We must also confront the situation created by the millions of undocumented people living and working in the shadows in the United States—the vast majority of whom are otherwise following our laws and making positive contributions to our economy. We can all agree that we have arrived at a point that is not sustainable, and we must face it up to with a solution that is achievable. As both President Bush and President Obama, along with their Secretaries of Homeland Security, have acknowledged, we cannot simply enforce our way out of a broken immigration system. I agree.

We must reject the easy slogans that reduce this highly complex problem to a bumper sticker solution—something the late Senator Ted Kennedy spoke against so passionately. When we talk about the millions of immigrants living and working in the United States as a mass of “illegals” to be sent out of the United States, we denigrate their humanity. As a nation, we can agree that we will tolerate for those who are out of status and go on to commit crimes. But for those whose only transgression was entering the United States unlawfully in search of a better life, we should proceed in a manner that is consistent with our best traditions.

Achieving what the majority leader has proposed will not be easy. We have experienced it all too often in recent years. I am heartened that the legislation the majority leader introduced includes reference to the DREAM Act and to AgJOBS, both of which I have strongly supported for many years. Even if our progress is incremental, I believe that working on behalf of America’s farmers and individuals whose undocumented status is not a result of their own volition is a sound starting place.

Among other important goals, the legislation calls on Congress to “support our national and economic security.” Along with AgJOBS and the DREAM Act, I hope Senators will also recognize the fundamental unfairness that exists in our immigration laws for gay and lesbian Americans and that this is also an economic issue. I have said many times that no American should be forced to choose between their loved ones and their careers. But this is the reality many Americans face, and it is wrong. Due to this false choice, many talented Americans choose to leave their country for nations that treat binational, same-sex couples fairly, often at a cost to their employers and our Nation’s economic growth.

There are existing immigration programs that Congress should strongly support and improve such as the EB-5 Regional Center Program, which has a proven record as an engine to promote job creation and capital investment in American communities. With permanence, added efficiencies, and strong oversight, this program can continue to operate as an economically productive part of our overall immigration system. We must also reform our refugee laws to ensure that those in need of protection find safety in the United States.

Americans have endured the bitter politics of immigration for far too long. The hurtful rhetoric has obstructed progress and has deepened the divisions on an issue that will require bipartisanship and compromise on all sides. It is my sincere hope that the divisions are not too deep to be repaired and that we can make progress on fixing our struggling system. A rational, economically productive, and humane immigration system should be a cornerstone of our democracy; a source of pride instead of anger, frustration or intolerance. Our history demonstrates that immigration to the United States and the tremendous diversity that has resulted has set an example of freedom and unity for the rest of the world. I hope as the 112th Congress begins, we will work toward a better system for America and all Americans.

APPOINTMENT OF JEFFREY R. IMMELT

Mr. LEAHY. Mr. President, I would like to salute Jeffrey R. Immelt for agreeing to chair the President’s new Council on Jobs and Competitiveness.

Mr. Immelt knows quite a bit about creating jobs, promoting innovation, and competing in the global economy. As the chairman and chief executive officer of General Electric, Mr. Immelt has led the company through a major expansion into growth markets overseas and made GE a leader in manufacturing a new generation of environmentally friendly technologies. Now, as we transition from stabilizing our economy to increasing employment and growth, Mr. Immelt’s experience leading GE will help him counsel the President through our long-term recovery.

Mr. Immelt knows that innovation is the key to America’s economic growth.
Consequently, GE relies heavily on the U.S. patent system. I have been very happy to work with Mr. Immelt and GE as strong proponents of bipartisan patent reform legislation.

I recently met with Mr. Immelt and was impressed by his determination to make GE even more competitive in the future than it has been in the past. He has original ideas on investing in research and development and understands that reviving and updating America’s manufacturing economy is critical to creating jobs in this country. I have always been impressed with his commitment to manufacturing in Rutland, VT, where GE Aviation has a major plant.

In honor of his willingness to serve in this new capacity, I ask unanimous consent to have printed in the RECORD Mr. Immelt’s recent op-ed, “A blueprint for keeping America competitive.”

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

[From the Washington Post, Jan. 21, 2011]

A BLUEPRINT FOR KEEPING AMERICA COMPETITIVE

(By Jeffrey R. Immelt)

President Obama has asked me to chair his new President’s Council on Jobs and Competitiveness. I have served for the past two years on the President’s Economic Recovery Advisory Board, and I look forward to leading the next phase of this effort as we transition from the short-term growth of the president and I are committed to a candid and full dialogue among business, labor and government to help ensure that the United States has the most competitive and innovative economy in the world.

Business leaders should provide expertise in service of our country. My predecessors at GE have done so, as have leaders of many other great American companies. There is always a healthy tension between the public and private sectors. However, we all share a responsibility for national competitiveness, particularly during economic unrest. This is one of those times.

My hope is that the new council will be a sounding board for ideas and a catalyst for action on jobs and competitiveness. It will include small and large businesses, labor, economists and government. Areas that we will focus upon include:

Manufacturing and exports: We need a coordinated commitment among business, labor and government to expand our manufacturing base and increase exports. The assumption made by many that the United States could transition from a technology-based economy to a services-led, consumption-based economy without any serious loss of jobs, prosperity or prestige was fundamentally wrong. But there is an inevitable about America’s declining manufacturing competitiveness if we work together to reverse it. For example, we have returned many GE appliance manufacturing jobs to the States by collaborating with our unions and making our operations more efficient.

Working with Boeing CEO Jim McNerney, who chairs the Council’s Export Council, the Council on Jobs and Competitiveness will look for ways to harness the power of international markets—home to more than 95 percent of the world’s consumers. Currently, the United States ranks lowest among the world’s largest manufacturing nations in the ratio of domestically produced goods sold overseas, or export intensity. We must set as our highest economic priority not just increasing our exports, as the president has pledged, but also making the United States the world’s leading exporter in the 21st century.

Free trade: America cannot expand its manufacturing base without increasing the volume of goods it sells overseas. That is why I applaud the free-trade agreement recently concluded between the United States and South Korea, which will eliminate barriers to U.S. exports and support export-oriented jobs. We should seek to conclude trade and investment agreements with other fast-growing regions of the world that modernize our systems for export finance and trade control. Those who advocate increasing domestic manufacturing jobs by erecting trade barriers have it exactly wrong.

Innovation: Businesses should invest more of their cash and resources in advanced products and technologies that will create jobs in the United States, and government should incentivize this investment in innovation. Today, GE is investing more than ever in research and development—about 6 percent of its revenue—to help ensure that the United States has the most competitive and innovative economy in the world.

It is possible to be a competitive global enterprise and still care about your home. In fact, it is not just possible but imperative. There is no easy solution to “fix” the American economy. Persistent and high unemployment—and the pessimism it breeds—cannot be accepted. We must work together to grow our economy in a way that creates more opportunity for more people.

HONORING OUR ARMED FORCES

LANCE CORPORAL MICHAEL GEARY

Mrs. SHAHEEN. Mr. President, it is with deep sadness that I rise to honor the life of LCpl Michael Geary, who died on December 8, 2010, from wounds received in Helmand Province, Afghanistan, while supporting Operation Enduring Freedom. He was just 20 years old at the time of his death, and 5 months into his first tour of duty as a Marine. Michael was a member of the 2nd Battalion, 9th Marine Regiment, 2nd Marine Division, II Marine Expeditionary Force, based at Camp Lejeune, NC.

A native of Derry, NH, Michael graduated from Pinkerton Academy in June 2009. As early as age 14, he wanted to join the Marines. Michael left for boot camp in North Carolina just 1 month after graduating high school to fulfill his life-long dream.

Admirably, Michael wished to represent our country to the best of his ability—so much so that, prior to his deployment, he studied Afghan culture in order to increase his cultural awareness and to communicate more effectively with the people of Afghanistan, especially Afghan youth.

Michael was survived by his devoted family. He was a constant source of inspiration to his family and friends. From his choice of service to his relentless drive and his dedication to the ones he loved, Michael is Luke’s hero. This young patriot is also a hero to the State of New Hampshire and our entire country.

LCpl Michael Geary made the ultimate sacrifice in the defense of the country he loved and for that he has earned our enduring gratitude. I hope his family can find comfort in knowing that all Americans share a deep appreciation for his heroism.

Michael is survived by his parents, Timothy and Nancy Geary of Derry, NH. He also leaves behind a caring extended family and many dear friends. This young hero will be missed by all.

I ask my colleagues and all Americans to please join me in honoring the life, service and sacrifice of LCpl Michael Geary.

STATE OF THE UNION ADDRESS

Mr. WYDEN. Mr. President, tonight’s State of the Union Address is a unique opportunity for the President to speak directly to the American people and offer his course for the country. The President is promoting trade as part of his agenda and I commend him for highlighting global competitiveness as an economic imperative. With the upcoming debate on the U.S.-Korea Free Trade Agreement, the President has an unparalleled opportunity to speak directly with the American people about the benefits and challenges posed by trade. Doing this supports the case that the United States needs new policies to rise to the challenges of a global economy.

In order to avoid a divisive, ugly fight over trade, I would like to hear the President say in his speech that he will seek to establish a new compact between workers, business, and government about how to increase our competitiveness in the global economy. It is important to try to reach this consensus before Congress is asked to consider the controversial free-trade agreements, FTAs, reached with Korea, Colombia, and Panama.

The President has already begun down this path by ramping up efforts to combat unfair trade practices and establishing the National Export Initiative with the goal of doubling exports over the next 5 years. These are both important strategies. In particular, aside from FTAs, it is vital that he talk about more than just exports; he must also highlight the value of imports, two-way trade, and the
global supply chain. This can only be done through candid conversation, one that the nation richly deserves. If our debate draws only from the same talking points that both sides have been using for the last 20 years, the truth will be sidelined as proponents oversell the potential merits of the agreements and opponents oversell the potential pitfalls. That would be a disservice to the country and represent a profound missed opportunity for the President.

For my trade agreements, I want to start with Korea as an example. This is the most economically meaningful FTA since NAFTA. To help understand the impact of this agreement, I sought the help of the Independent International Trade Commission, ITC. In 2007, the ITC found that the agreement would have a limited impact on job creation, partly because of the assumptions the ITC made in its analysis. But economic analysis shows the potential economic impact of this agreement in 2010 is profoundly different than it was in 2007. I asked staff of the ITC to provide an updated assessment of the agreement using conditions that reflect today’s economic reality. Based on these updated results, the FTA has the potential to create about 280,000 new American jobs and boost U.S. economic output by $27 billion each year.

At the same time, these projections show that millions of jobs currently employed in manufacturing could lose their jobs. Neither the President nor Congress can ignore these families, and it is our job to enlarge what I call the Winners’ Circle to ensure America will benefit to Americans in all our communities.

When American firms and their workers are as competitive as they can be, they can better tap foreign markets opened by trade agreements to spur the domestic economy and produce more good-paying jobs here at home. The Department of Labor’s chief economist recently testified that jobs related to international trade typically pay more and offer better benefits. But when I talk with leading CEOs and labor economists, I hear the same concern: If we want our economy to grow at its full potential, we need more workers with the tools to compete.

In tonight’s speech I would like to hear the President talk about proposals that will guarantee workers’ career-long, affordable access to continuing education and skills upgrading so that businesses always have the most skilled and trained workforce they need. We expand the Winners’ Circle by making it easier for workers to move from one job or career to the next and by making America the most attractive place to work and live for anyone who can contribute to our economy and the ambition to succeed. Making it easier for companies with obsolete technology to retool to meet 21st-century global competition further expands the Winner’s Circle. This means a tax code that rewards the growth of American firms while fostering investment in production and employment here at home.

In the coming months, President Obama has an opportunity to forge a new, bipartisan consensus about trade and increasing foreign competitiveness. If he succeeds at this, not only does he succeed in passing these trade agreements but, far more importantly, we can expand the Winner’s Circle to drive the economy forward.

**NORTHERN CYPRUS**

Mr. CARDIN. Mr. President, I rise today to return to the issue of the legacy of the invasion and ongoing occupation of Northern Cyprus and related human rights violations in the region. The disruption of a Christmas liturgy at the Orthodox Church of Agios Synesios, in Rizokarpaso, by the security services is appalling and should be roundly condemned by people of good will. The town, located in the Karpas region, is an anchor for the remnant of the once-thriving community, now numbering several hundred mainly aged souls. The faithful had gathered at the church one of only a handful of Orthodox places of worship in the occupied area to have survived intact for a rare service. According to reports, members of the security services entered the church while the liturgy was being celebrated, ordered a halt to the religious service, and forced the worshipers and the priest out of the building before locking the doors.

This sad turn of events has become all too familiar in a region under the effective control of the Turkish military. Of the 500 Orthodox churches, monasteries, chapels and other sacred sites in the north, nearly all have sustained heavy damage, with most desecrated and plundered, including cemeteries. A mere handful, including the Church of Agios Synesios, may occasionally be used for religious services depending upon the whims of the local authorities and the military. The disruption of the Christmas Day liturgy is an affront to the dignity of those attending the service and is part of a disturbing pattern of violation of OSCE commitments on the fundamental freedom of religion, including the right of religious communities to maintain freely accessible places of worship.

A related concern has been the tendency of State Department reports to downplay the difficulties faced by Orthodox Christians in Northern Cyprus to remove restrictions on the free exercise of freedom of religion and other basic human rights in this part of the country under their control.

**ADDITIONAL STATEMENTS**

**REMEMBERING BRAD BROOKS**

Mr. BEGICH. Mr. President, I wish to remember the life of a remarkable man, Mr. Carl Bradford Brooks of Fairbanks, AK, who passed away on November 27, 2010. He was 58.

Born on October 25, 1952, Brad was a lifelong Fairbanksan who graduated from Lathrop High School in 1970. Brad was always proud he was a member of the International Brotherhood of Electrical Workers Local 1547 and the Public Employees Local 71 unions. During his career, he worked on building the Trans-Alaska pipeline and maintained communication infrastructure across the entire State of Alaska.

Brad fully embraced the spirit of volunteerism as he tirelessly helped make Fairbanks a better place. As a founding member of the Interior Democrats, Brad helped shape the political atmosphere of Interior Alaska for the Alaska Democratic Party for over 30 years. At the time of his passing, Brad was serving on the Executive Committee as communications secretary.

Coming from a family of Eagle Scouts, Brad earned the rank and continued a life of service to the Boy Scouts of America. Thousands of volunteer hours, community service projects and laughs were shared with the boys of Troop 10, the Midnight Sun Council and Lost Lake Scout Camp. Several awards were presented to Brad for his Scouting service including awards from the AFL-CIO and the local Silver Beaver Award. Many young men were mentored, enriched, and encouraged to participate in a life of service to community by Brad’s example.

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Every year, Brad would lend many hours of his communications expertise assisting the Yukon Quest International Sled Dog Race between Whitehorse, British Columbia, Canada, and Fairbanks, AK. Brad assisted with the set up and coordination of trail communication necessary to allow mushers in remote areas to communicate with race officials and emergency responders.

Lastly, but most importantly, Brad was devoted to his wife of 32 years, Drena McIntyre, and his son Tyler, daughter Graehl, and granddaughter Sylvia-Lei.

A final farewell to Brad included a rock n roll wake at Big Daddy’s Bar-B-Q in Fairbanks. Many came dressed in Brad’s favorite attire: either Carhartts overalls, a Hawaiian Aloha shirt or and a tie-dye Tee shirt. His many friends and loved ones maintained the ideals of fun and companionship which Brad Brooks exemplified throughout his whole life.

Condolences go out to his family and to all others who were close to him.

REMEMBERING REBECCA WOOD WATKIN

• Mrs. BOXER. Mr. President, I take this opportunity to honor the life of Rebecca “Becky” Wood Watkin, a dedicated progressive advocate for the environment and affordable housing. Ms. Watkin passed away peacefully on November 19, 2010. She was 97 years old.

Born in 1913 in Portland, OR, to Erskine Wood and Rebecca Biddle Wood, Becky earned a bachelor of arts from Bryn Mawr College in 1933. Four years later, she earned a bachelor of architecture from the University of Pennsylvania’s School of Architecture. At the time, Penn did not admit women to its Architecture School, so Becky and two other women blazed a trail—they took the corresponding coursework required for an architecture degree, and then insisted that the school confer a bachelor of architecture degree. They became the first women to receive that degree from the University of Pennsylvania’s Architecture School.

After receiving her degree in architecture, Becky moved to Sausalito, CA, where she found work as a draftswoman. In 1944, after the required 4 years of drafting work, she received her professional registration on December 21, 1945. At the time, there were very few women licensed to practice architecture in California; however, blazing another trail, Becky opened her own architecture practice in 1951.

Becky dedicated herself to helping those less fortunate than she was. In 1968, she helped found the Marin Ecumenical Association for Housing, which has provided hundreds of low-income housing units in Marin County. EAH, as it is now known, has successfully developed and promoted quality affordable housing for 42 years. In addition to her work with EAH, Becky also served on the Marin County Planning Commission in the 1970s, where she was a leading advocate for environmentally sensitive development and affordable housing.

Becky also believed strongly in civic participation, and was very active with the Marin County Democratic Party. She cochaired Adlai Stevenson’s local campaign in 1952 and 1956, and in 1960, she was John Kennedy’s precinct chairwoman in Marin. In 1968, Becky cochaired Marin County’s Eugene McCarthy for President Committee, and in 1972 Governor Wilson’s local Presidential campaign. Breaking a losing streak, Becky ran Jimmy Carter’s primary campaign in 1976, also serving as a delegate to the National Convention.

In fact, Becky was one of the first people to give me a start in local politics: when I went to volunteer at the local Marin County Democratic campaign office in 1968, Becky put me to work typing address labels!

Becky left a deep impression on all who knew her. Whether in Portland, Marin, or San Diego, where she moved in 2003, her life was full of activity. She loved the outdoors, and was an avid hiker and skier. Always a lover of music, she sang with the Marin Chorus until she was in her eighties, and regularly attended and supported the symphony and opera both in San Francisco and in San Diego.

Throughout her life, Becky’s commitment to her community was evident in the work she did every day. She was a true trailblazer and progressive advocate, working tirelessly to better her community. Her lifetime of contributions will not soon be forgotten.

Becky is survived by her daughter Lisa; sons Joseph and Peter, and their spouses Ye Wa and Trylla; grandchildren Joseph Scott, Christopher, Milena, Katrina, and Lisi; and five great-grandchildren. I extend my deepest sympathies to her family and I feel blessed that Becky was a mentor, and most important, a dear friend.

REMEMBERING WALTER L. KUBLEY, SR.

• Ms. MURKOWSKI. Mr. President, today I honor Walter L. Kubley, Sr. On December 14, 2010, Alaska lost this shining star who truly possessed the legendary 'Pioneer Alaskan Spirit.' Walter, who called Ketchikan, Alaska his home, was a leader of the community, and a shining star who truly possessed the character of the Northwest. He was a man’s Club where Wally enjoyed relax-
say that Wally helped create the Alaskan future together and will happily inherit it. He was the driving force for many Alaskan traditions and our family and me owe him immense gratitude. May he rest in peace.

VERMONT ESSAYS

Mr. SANDERS. Mr. President, today I wish to share the powerful words of 12 Vermont students. As I toured the schools of Vermont, I encouraged students to write me focusing on issues of concern to young people and to recommend short- and long-term priorities for the President. I received more than 25 State of the Union essays about the declining middle class, climate change, and health care reform. These students truly answered, what is the state of our Union?

It is important to remember that part of our jobs is to represent the young people of our States and not just their parents. We all know that what happens in Washington, DC, impacts every American and all of us, including young people, should be thinking about these issues. Although Vermont is doing a better job than most States, there is certainly a legitimate concern that young people are not learning enough about civics. I think these essays demonstrate that students do understand the role they can play in American democracy.

As President Barack Obama presents his State of the Union Address to a joint session of Congress tonight, I think it is appropriate that the top dozen essays are printed in the RECORD, so that the entire country can see the excellent work that Vermont students are doing. I also want to thank the teachers—Jennie Gartner from Rutland High School; Elizabeth Lebrun, of Poultney High School; Joe Maley of South Burlington High School; and Terri Clark, of Champlain Valley Union High School in Plainfield—who helped me select these essays.

Keenan Villan-Holland from Vermont Commons School was the students’ top choice. In addition to Keenan, the other finalists, in alphabetical order, are: Iain Axworthy, Essex High School; Emily Berk, South Royalton School; Molly Burke, Champlain Valley Union High School; Jonah Cantor, Champlain Valley Union High School; St. J’s Academy; Kristen Donaldson, Champlain Valley Union High School; Susannah Johnson, Vermont Commons School; Ingrid Klinkenberg, Edmonds Middle School; Ezra Mount-Finette, Champlain Valley Union High School; Lisa Ogle, of Rutland High School; and Bryn Philibert, Champlain Valley Union High School.

I am pleased the students of Vermont are thinking about these complex issues, which are of critical importance to not only our States but indeed the Nation. The decisions that we make on the Senate floor today will impact generations of Americans to come. That is why I would like to share with you what these students wrote. I ask that they be printed in the RECORD.

The material follows.

KEEAN VILLAN-HOLLAND, VERMONT COMMONS SCHOOL

The world is changing, and the United States has to take note in order to lead that change. Oil is running out, global warming is reaching or has already passed a significant tipping point and tensions with North Korea are in the forefront. The middle class is rapidly disappearing due to an economic crisis that has been festering for years, we are losing out in education to our most seen as our future leaders, and nearly lost touch with the government and vice versa.

In older times, nations would go through major catastrophes often: devastating wars, plague, bloody revolutions, etc. Often enough to keep them new. In this day and age, these enormous crises are largely averted in the western world. Make no mistake, this is a great thing. However, it means we need to take it upon ourselves to renew our Nation, rather than waiting for a catastrophe that is coming.

We need to change quickly on three main fronts: The environment, the economy, and education. It is time to realize that fighting environmental problems is not new, and least altruistic. The planet doesn’t care about global warming or melting ice caps. We, on the other hand, should. Our current economic model has become unsustainable and non-functional. The President must acknowledge that we are slowly squeezing the middle class dry to supply the rich. Finally, our educational system clearly isn’t working for everyone. When China is easily surpassing us in education and our students feel more over-worked and overstressed every day.

Let me first talk about the environmental front. Oil is running out, unemployment is still at a high, and we need a large-scale public awareness campaign to bring that point home to American people. After that, we need to start with large scale energy reform, focusing on renewables and following a European model.

On the economy, we need to throw away our preconceptions about the free market and start over. Heavy regulation to ensure the economic viability of our people, and measures to start moving wealth back down the ladder to the middle and lower classes are essential.

Finally, our educational system needs deep reforms to focus on actually teaching children, rather than preparing them to do well on tests. Children want to learn. That’s what they are supposed to be doing at that point in their life. It’s just a matter of taking the time for each individual and giving them the attention they need and actually being invested in them materially. All of these ideas are fluid and adaptable, as any part of government should be. We should never be afraid to change the course we are taking favoring those that may be more beneficial. The past decade was one about “Staying the course.” This next one will be known as the one when we “Changed the course.”

IAIN AXWORTHY, ESSEX HIGH SCHOOL

Our Nation faces many challenges entering into the new year. A recession has about 9.4 percent of our population out of work, we have a government underemployed, median income has been cut off, and a tarnished image of America abroad must be mended. Though these challenges are great they present us with what I see as the best opportunity in the history of our country. Our role as a world leader has come into question as late and good times provided little opportunity to change that view. When times are hard real leaders take it upon themselves to set the tone of the moment and show others how to react. It is time for America to lead.

Our troubles at home and our troubles abroad are tremendous. Our economy is in a weak phase of recovery, our federal deficit is larger than it ever has been, and our military forces are engaged in a costly war. Relations have become strained between the United States and many of the world. The policies of previous presidents have cost us tens of billions of dollars, both domestically and overseas, must be exemplary. The US has been the center of world commerce and culture for so long that we have been seen as a global role model. Instead viewing the coming shift of power as a loss we must view it as a win. In the wake of World War II the US helped set up a system of commerce that allowed many countries to develop into world powers. The fact that countries other than ours are realizing their potential should be seen as a great victory.

As we watch new world powers emerge we must see too that they will look to us as a role model. It is our duty and our privilege to set the right example in all areas, both in and outside of government. The sector must become more responsible for its actions and create shared value within its partnerships. Our country must learn to save and spend responsibly. Finally the people who represent us in Congress and our state legislatures must depolarize and find the mutual understanding that has been lost. Once the correct tone is set and our leaders act as they would have us act, then we can look forward to a better tomorrow.

GROWING UP IN RURAL, MIDDLE CLASS AMERICA

I am an American that has been affected by this, I believe that the President’s ultimate goal should be to stabilize the economy, and support our own. I believe that in order for the economy to become stabilized, a short-term goal should look like job creation and new businesses. Jobs will stimulate the economy and let people who are on unemployment go back to work and earn more money. And to allow people to get the education and training they need for employment for their education and ability. I believe by creating more jobs, people will make more money, and more money will be spent and more people will start getting more and more out the recession. “Creating jobs in the United States
and ensuring a return to sustainable economic growth is the top priority for my Administration.” Barack Obama said in an Executive Order last March on his National Export Initiative, the United States has the potential to create up to 7 million new jobs such as more jobs, it will help start to stabilize the economy.

Another priority that I believe that should be on our agenda is to ensure military families. Families with family members in the military struggle every day life. I personally have a family being affected by it. My son’s father is in the war. He is on his second tour. He has missed his children grow up, with a daughter who is now 15 and a 10 year old son. His wife is forced to be a single mother. I have sent financial support and counseling we could help the families being affected by war. With programs set up for single parents with their partner in the war nobody can understand better then another parent with their partner in war. They would be able to share stories and understand how one and another copes with them gone. And more appreciation for those serving our country. They’re fighting for their lives, causing their families live’s to become difficult and change the way they live. Another priority should be Student Loan Reforms.

Student Loan Reforms are important because as we are addressing the banks, the “middlemen” in the loan process and will save the US government about $68 billion dollars over a span of 11 years, according to the White House. Because fees will be paid to the local banks, more money will be available to lend to students because the money’s coming directly from the government. The banks also charge the government money for each loan because they’re not giving students money for free. But for students, the loans will look relatively the same, but will pay the same interest rates. The loans will most likely become more accessible to students as well.

These are some of the short-term goals I believe should be considered to help our country. I believe that this economic downturn, can, with work, be fixed. If we really want something we can achieve it. If people in our Nation come together and act as one, we can do it. I hope that I was able to give you good ideas about what goals I believe can help our nation. Even though I am just a single mother, I have a 10 year old son. His wife is forced to be a single mother. With programs set up for single parents, I hope we can work as a country to achieve our goals to make a more perfect society.

MOLLY BURKE, CHAMPLAIN VALLEY UNION HIGH SCHOOL

My fellow Americans today I will address issues you and I are facing as a country. Our country’s trade deficit with foreign nations, the flaws of our education system, and the need for healthcare reform are issues I hope we can address. I believe that positive progress towards these goals however this can only be achieved if both parties are willing to make compromises. Working together as one Nation will strengthen the union. Thank you. God bless you. And God bless the United States of America.

JONAH CANTOR, CHAMPLAIN VALLEY UNION HIGH SCHOOL

Since June 2009, the United States has been slowly recovering from a severe economic recession. With an unemployment rate of 9.7% in 2010, it is important that we must focus our energies on job creation. Generating jobs in the environmental field and re-building our nation’s infrastructure including roads and rail infrastructure which are deteriorating, will provide job opportunities. In order to meet many of these objectives, we need to take a look at our current educational system to ensure we are providing the necessary tools and training for the youth of this country and accurately preparing them for the future workforce. In particular, we must stress the importance of math and science to remain at the forefront of innovation and technology. The United States has a $1.4 trillion deficit. This issue relates directly to the amount of overspending in this country. The proposal by the Republican Party, requesting to cut spending to an all time low, is not the answer. Job creation instead of placing higher taxes on affluent citizens is not enough to reduce the national debt. Raising taxes on the wealthiest is not enough to decrease the national debt without severely impacting their financial situation. We need to make hard choices, we need to cut spending and raise taxes in order to reduce the deficit.

Healthcare is a benefit that should be given to each citizen of the United States. In the Declaration of Independence, each person was guaranteed the unalienable right to “Life.” This right should be protected by universal healthcare, which provides citizens with the medical care and treatment necessary for their well-being. Universal healthcare is a basic right for each citizen.

The United States needs to continue to be a world leader, however it no longer has the resources to be the “worlds policeman.” The United States needs to work more effectively with other countries, such as China, Japan, and Russia to solve large global issues. Collectively, we have a responsibility and duty to solve global problems.

One of the primary goals and create a more effective government, there needs to be a more civil discourse between the Democratic and Republican Parties. As the leader of this country, I believe we must put aside our party differences to help the American people. We must work together towards these goals however this can only be achieved if both parties are willing to make compromises. Working together as one Nation will strengthen the union.

Thank you. God bless you. And God bless the United States of America.

MOLLY BURKE, CHAMPLAIN VALLEY UNION HIGH SCHOOL

The people are pertinent to a democratic government. They have responsibilities as well as rights to play an active role in public life. In order to participate in and take action in the government, a citizen must first be informed of the issues, problems, and policies that face the country. A very important part of civic responsibility is voting. People have a right to vote, and voters, especially young and new voters, are responsible for being informed of the candidate’s stance and goals. An informed voter will elect the candidate best fit for guiding the United States to recovery and prosperity. As the article, “Mr. Obama’s un-promising year” in The Economist states, young and first time voters, “who in 2008 were electrified by his person rather than his policies, should have informed himself and should have voted for President Obama because of his stances and policies. Therefore, encouragement of civic responsibility, such as young voters voting, is a very important issue that should be addressed in the State of the Union Address.
The State of the Union Address is an important opportunity in which the voices of the people can be heard. Two important topics that should be addressed include the encouraging economic progress we have made and the ever-growing debate of unemployment versus the deficit.

**Kristin Donaldson, Champlain Valley Union High School**

My fellow Americans, our history as a country has had its ups and downs. We’ve seen hardships like most nations have never seen before, but also we’ve seen prosperity that some nations have only ever dreamed of. At this point, our Nation is struggling in one of these “lows.” However, because of our proud “high” moments that we have in this country, I know that change is possible with just a few alterations.

Although the unemployment rate has dropped from 10.6 percent to 9.3 percent, that still means 21,830,960 Americans are unemployed. No way to pay their rent that is riding over their heads, not sure if they will make it through the winter, and still have a house to their name. That is the reality for almost 1 in 10 Americans. We need to create more jobs, so we can continue to see that percentage decrease. One way is to create new jobs and universities need to do that, too. Hundreds of thousands of jobs lie on the creation and innovation of clean energy. Why not reduce our unemployment rate, while leading the world on a new green path?

Outsourcing is the second main reason for unemployment rates. As a country, we need to put our priorities first, and make sure that we hold onto our jobs. We need to step back up to the plate again, and continue our stronghold on the title of the world’s powerhouse.

Now, along with instability in jobs, comes the concern of our overriding deficit. This deficit is like the elephant in the room. Everyone knows that there is a problem, but no one is doing anything about it. Our country is in over $14 trillion dollars of debt. The only viable fix is to cut all of the programs that simply aren’t working. We need to re-think our approaches, and decide what is needed and what isn’t.

Finally, the issue of the rising education costs is plaguing our Nation, holding children back from their full potential. If students are able to go to school, 2/3 of them will be stuck under student loans once they graduate. Universities need to cut their costs, because if they do so, more students will have a chance at education. More of these educated citizens will be able to contribute towards our country.

Ladies and gentlemen, America’s history has been a rollercoaster of ups and downs. We’ve seen it all, and we know how to recover from the most pressing problems, America will have the opportunity to possibly not see a “down” for a long time.

**Susannah Johnson, Vermont Commons School**

We Will Not Be Perfect, But We Will Be Better

I try to use the word “perfect” seldom. In my short life I’ve worked with lots of different people in many different places. And I have come to the sad conclusion that the world is not perfect. Many things have happened in the past year, we have achieved some of our goals, but we have fallen short on some of our goals as well. A couple of years ago, our country was in a severe economic decline. Since then our economy has been improving and looking promising. This is a step in the right direction. In the other direction, this year car sales have dropped by 10.3 percent. If we can do something to lower the poverty rate in coming years that would be beneficial. The state of our Union is stronger today than it was yesterday. That is where our economy can be stronger next year if we stay focused.

Poverty in the United States is a big problem. Right now about 13 percent, or nearly 40 million Americans are living in poverty. Many of these people live without a roof over their head, food on the table, and many work multiple jobs just to survive.

It was in our hands to make the opportunity of education more accessible, education provides opportunities. When more people have the opportunity of education, there will be fewer people paying for two jobs, which will allow them to better support themselves. Even though education would offer a brighter future for many, there still will be poverty. It is an unsolved problem the whole world is faced with. It has existed in the past, it exists now, and it will exist in the future. What we need is to reduce poverty in the future. Better education and more opportunities will be one of the keys.

Lastly, the issue of the rising education costs is plaguing our Nation, holding children back from their full potential. If students are able to go to school, 2/3 of them will be stuck under student loans once they graduate. Universities need to cut their costs, because if they do so, more students will have a chance at education. More of these educated citizens will be able to contribute towards our country. We have work to do, and I am first going to address the subject of partisanship, not just in Congress but also the state of the union. We might be Muslim, Jewish, Christian, old, young, African-American, Mexican-American, Caucasian, democrat or republican but there is one thing we all are: citizen of this great country. I want to remind Congress that their duty is to represent the United States and what is in the country’s best interest. That there are no two sides of an issue just two opinions; both with there own positives and negatives about the state of the United States this past year, I think it was a good step in the right direction for a better future in our country.

**Mira Mount-Finette, Champlain Valley Union High School**

Mr. Speaker, Vice president Biden, Members of the Congress, distinguished guests and fellow American citizens.

I am here before you today, to full fill one of my constitutional responsibilities to address congress on the current state of union. I want to thank everyone for the past hundred and twelfth congress but also to the citizens concerned in the condition of our country.

To lay away through my presidential term, we have brought our country out of a recession, passed a health care bill that delivered healthcare to every single United State citizen. We have also worked towards the hundred and twelfth congress but also to the citizens concerned in the condition of our country.

We have work to do, and I am first going to address the subject of partisanship, not just in Congress but also the state of the union. We might be Muslim, Jewish, Christian, old, young, African-American, Mexican-American, Caucasian, democrat or republican but there is one thing we all are: citizen of this great country. I want to remind Congress that their duty is to represent the United States and what is in the country’s best interest. That there are no two sides of an issue just two opinions; both with there own reasoning behind them. Your job as Congressmen is to create the optimal legislation that protects the citizenry, not legislation that is beneficial to a party, a company or yourself, but to the three hundred million other people that live in the United States. We need to have more ideas and work together to compromise. Look past the D or R that is by your name.
and look at your passport, your license and tax forms and stare at the word “America” that is printed on them.

Our economy is not on the brink of collapse, but is the birthplace of success. As I stood hear last year, banks were in trouble and weren’t loaning out money. The stock market was plummeting and everyone was2011-July 15 01:47 Aug 19, 2011 Jkt 099060 PO 00000 Frm 00042 Fmt 0624 Sfmt 0634 E:\RECORD11\RECFILES\S25JA1.REC S25JA1bjneal on DSK2TWX8P1PROD with CONG-REC-ONLINE

could make healthcare available to all, especially young people, and reduce the national deficit, then this generation has the opportunity to really succeed. These changes would also help improve our economy, global position, and overall wellness of the young people in America.

BRYN PHILIBERT, CHAMPLAIN VALLEY UNION HIGH SCHOOL

My fellow Americans,

This year our country has risen out of a recession that threatened the economic stability of many Americans. We have taken great steps this year to ensure that America has always stood for. In 2010 we have made great progress but there is still much more to do. Moving forward, which is why I am taking this opportunity to address you. I am addressing you all to call to all esteemed members of Congress to step up and help me once again put the United States back on top as a world leader in democracy and peace.

Two years after the recession devastated our people, we finished this past year with an unemployment rate of 9.4 percent, down 0.6 percent from the end of 2009. Consumer and business confidence is on the rise and we have finally come to a bipartisan agreement that the government reached a compromise to improve economic growth, help the struggling middle-class families, and business development. We have also made historic steps towards the promise of equality for all with the repeal of the ban on open homosexual service men and women in our armed forces.

This year our Health Care Reform Bill set forth legislation to expand coverage to 32 million currently uninsured Americans. Along with this, the bill allowed health care to become less expensive for people to purchase and starting in 2014 insurance companies will no longer be able to deny coverage to anyone based on pre-existing conditions. This marks the turning point of what Americans, like the late Senator Ted Kennedy, worked their entire lives for.

By August of this past year we had shrunk the number of troops in Iraq to 50,000 down from 110,000 a year ago, and we have ended all U.S. combat missions in Iraq. By the end of 2011 America will be withdrawn from Iraq. There is still much to be done around the world to ensure a terror free future, but we have made substantial steps towards that goal.

America has faced challenges this year such as the oil spill in the Gulf. We have learned from this environmental crisis and are moving forward with new knowledge on how to respond to the economic impacts of a crisis like this.

It is a known fact of American politics that U.S. has rarely agreed in issues across the board, but I know that all of us in this room can agree that we come here every day to ensure that all American people get the opportunity to live in our great country. Now more than ever bipartisanship is going to be imperative to the achievements of the upcoming year. I urge you all, Democrats and Republicans, to work together to live up to the promise of America as our forefathers have.

Thank you.

TRIBUTE TO ANGELA GOSPODAREK AND STACEY PLUMMER

Mrs. SHAHEEN, Mr. President, today I wish to congratulate two outstanding teachers from New Hampshire.

Stacey Plummer and Angela Gospodarek have been chosen for the Presidential Awards for Excellence in Mathematics and Science Teaching. This is the most prestigious honors given to math and science teachers in the country. As a former teacher, it is a privilege for me to be able to congratulate Angela Gospodarek and Stacey Plummer for their commitment to excellence in teaching.

To the Congress of the United States:

Mr. Speaker, Vice President, Members of Congress, distinguished guests, and fellow Americans:

Tonight I want to begin by congratulating the men and women of the 112th Congress, as well as the hardworking staff, including John Boehner. And as we mark this occasion, we are also mindful of the empty chair in this Chamber, and pray
for the health of our colleague—and our friend—GABBY GIFFORDS.

It’s no secret that those of us here tonight have had our differences over the last 2 years. The debates have been contentious; we have fought fiercely for our beliefs. And that’s a good thing. That’s what democracy demands. That’s what helps set us apart as a Nation.

But there’s a reason the tragedy in Tucson gave us pause. Amid all the noise and passions and rancor of our public debate, Tucson reminded us that no matter who we are or where we come from, each of us is a part of something greater—something more consequential than party or political preference.

We are part of the American family. We believe that in a country where every race and faith and point of view can be found, we are still bound together as one people; that we share common hopes and a common creed; that the little girls of Tucson are not so different than those of our own children, and that they all deserve the chance to be fulfilled.

That, too, is what sets us apart as a Nation. Now by itself, this simple recognition won't usher in a new era of cooperation. What comes of this moment is up to us. What comes of this moment will be determined not by whether we can sit together tonight, but whether we can work together tomorrow. I believe we can. I believe we must. That’s what the people who sent us here expect of us. With their votes, they’ve determined that governing will now be a shared responsibility between parties. New laws will only pass with support from Democrats and Republicans. We will move forward together, or not at all—for the challenges we face are bigger than party, and bigger than politics.

At stake right now is not who wins the next election—after all, we just had an election. At stake is whether new jobs and industries take root in this country, or somewhere else. It’s whether the hard work and industry of our people is rewarded. It’s whether we sustain the leadership that has made America not just a place on a map, but a light to the world.

We are poised for progress. Two years after the worst recession most of us have ever known, the stock market has come roaring back. Corporate profits are up. The economy is growing again. But we have never measured progress by these yardsticks alone. We measure progress by the success of our people. By the jobs they can find and the quality of life those jobs offer. By the prospects of a small business owner who dreams of turning a good idea into a thriving enterprise. By the opportunities for a better life that we pass on to our children.

That’s the project the American people want us to work on. Together.

We did that in December. Thanks to the tax cuts we passed, Americans’ paychecks are a little bigger today. Every business can write off the full cost of the new investments they make this year. These steps, taken by Demo- crats and Republicans, will grow the economy and add to the more than one million private sector jobs created last year.

But we have more work to do. The steps we’ve taken over the last 2 years may have broken the back of this re- cession—but to win the future, we’ll need to take on challenges that have been decades in the making.

Many people watching tonight can probably remember a time when finding a good job meant showing up at a nearby factory or a business downtown. You didn’t always need a degree, and your competition was pretty much lim- ited to your neighbors. If you worked hard, chances are you’d have a job for life, with a decent paycheck, good ben- efits, and the occasional promotion. Maybe you’d even have the pride of see- ing your kids work at the same company.

That world has changed. And for many, the change has been painful. I’ve seen it in the shuttered windows of once booming factories, and the vacant Main Streets. I’ve heard it in the frustrations of Americans who’ve seen their paychecks dwindle or their jobs disappear—proud men and women who feel like the rules have been changed in the middle of the game.

They’re right. The rules have changed. In a single generation, revolu- tions in technology have transformed the way we live, work, and do business. Steel mills that once needed 1,000 workers can now do the same work with 100. Today, just about any company can set up shop, hire workers, and sell their products wherever there’s an internet connection.

Meanwhile, nations like China and India realize the same changes of their own, they could compete in this new world. And so they started educating their children earlier and longer, with greater emphasis on math and science. They’re investing in re- search and new technologies. Just re- cently, China became home to the world’s largest private solar research facility, and the world’s fastest computer.

So yes, the world has changed. The competition for jobs is real. But this shouldn’t discourage us. It should challenge us. Remember—for all the hits we’ve taken these last few years, for all the naysayers predicting our decline, America still has the largest, most prosperous economy in the world. No workers are more productive than ours. No country has more successful compa- nies, or grants more patents to inven- tors and entrepreneurs. We are home to the world’s best colleges and univer- sities, where more students come to study than any other place on Earth.

What’s more, we are the first Nation to be founded for the sake of an idea—the idea that each of us deserves the chance to shape our own destiny. That is why centuries of pioneers and immi- grants have risked everything to come here. It’s why our students don’t just memorize equations, but answer ques- tions like “What do you think of that idea? What would you change about the world? What do you want to be when you grow up?”

The future is ours to win. But to get there, we can’t just stand still. As Rob- ert Kennedy told us, “The future is not set. It is an achievement.” Sustaining the American Dream has never been about standing pat. It has re- quired each generation to sacrifice, and struggle, and meet the demands of a new age.

Now it’s our turn. We know what it takes to compete for the jobs and in- dustries of our time. We need to out-in- novate, out-educate, and out-build the rest of the world. We have to make America the best place on Earth to do business. We need to restore the respon- sibility for our deficit, and reform our Government. That’s how our people will prosper. That’s how we’ll win the future. And tonight, I’d like to talk about how we get there.

The first step in winning the future is encouraging American innovation.

None of us can predict with certainty what the next big industry will be, or where the new jobs will come from. Thirty years ago, we couldn’t know that something called the Internet would lead to an economic revolution. What we can do—what America does better than anyone—is spark the cre- ativity and imagination of our people. We are the Nation that put cars in driveways and computers in offices; the Nation of Edison and the Wright broth- ers; of Google and Facebook. In Amer- ica, innovation doesn’t just change our lives. It’s how we make a living.

Our free enterprise system is what drives innovation. But because it’s not always profitable for companies to invest in basic research, throughout his- tory our Government has provided cutting-edge scientists with the support that they need. That’s what planted the seeds for the Inter- net. That’s what helped make possible things like computer chips and GPS.

Just think of all the good jobs—from manufacturing to retail—that have come from those breakthroughs.

Half a century ago, when the Soviets beat us into space with the launch of a satellite called Sputnik, we had no idea how to beat them. We didn’t understand the science wasn’t there yet. NASA didn’t even exist. But after investing in bet- ter research and education, we didn’t just surpass the Soviets; we unleashed a wave of innovation that created new industries and millions of new jobs.

This is our generation’s Sputnik mo- ment. Two years ago, I said that we needed to reach a level of research and development we haven’t seen since the height of the Space Race. In a few weeks, I will be sending a budget to the Congress that helps us meet that goal. We’ll invest in biomedical research, in- formation technology, and especially
clean energy technology—an investment that will strengthen our security, protect our planet, and create countless new jobs for our people.

Already, we are seeing the promise of renewable energy. Robert and Gary Allen, who run a small Michigan roofing company. After September 11th, they volunteered their best roofer to help repair the Pentagon. But half of their factory went unused, and the recession hit them hard. Today, with the help of a Government stimulus grant, they are using space that was once used to manufacture solar shingles that are being sold all across the country. In Robert’s words, “We reinvented ourselves.”

That’s what Americans have done for over 200 years: reinvented ourselves. And to spur on more success stories like the Allen Brothers, we’ve begun to reinvent our energy policy. We’re not just handing out money. We’re issuing a challenge. We’re telling America’s scientists that if they assemble teams of the best minds in their fields, and focus on the hardest problems in clean energy, we’ll fund the Apollo Projects of our time.

At the California Institute of Technology, developing a way to turn sunlight and water into fuel for our cars. At Oak Ridge National Laboratory, they’re using supercomputers to get a lot more power out of our nuclear facilities. With more research and incentives, we can break our dependence on oil with biofuels, and become the first country to have 1 million electric vehicles on the road by 2015.

We need to get behind this innovation. And to help pay for it, I’m asking the Congress to eliminate the billions in taxpayer dollars we currently give to oil companies. I don’t know if you’ve noticed, but they’re doing just fine on their own. So instead of subsidizing yesterday’s energy, let’s invest in tomorrow’s.

Now, clean energy breakthroughs will only translate into clean energy jobs if businesses know there will be a market for what they’re selling. So tonight, I challenge you to join me in setting a new goal: by 2035, 80 percent of America’s electricity will come from clean energy sources. Some folks want wind and solar. Others want nuclear, clean coal, and natural gas. To meet this goal, we will need them all— and I urge Democrats and Republicans to work together to make it happen.

Maintaining our leadership in research and technology is crucial to America’s success. But if we want to win the future—if we want innovation to produce jobs in America and not overseas—the government also have to win the race to educate our kids.

Think about it. Over the next 10 years, nearly half of all new jobs will require education that goes beyond a high school degree. And yet, as many as a quarter of our students aren’t even finishing high school. The quality of our math and science education lags behind many other nations. America has fallen to 9th in the proportion of young people with a college degree. And so the question is whether all of us—as citizens, and as parents—are willing to do what’s necessary to give every child a chance to succeed.

The fact is that the best investment we can make is in the minds of our children. That’s why we’ve chosen public education as a central focus of our economic strategy. That’s why we’re setting a new goal: by 2035, 80 percent of America’s electricity will come from clean energy.

In fact, to every young person listening tonight who’s contemplating their career choice: If you want to make a difference in the life of our Nation; if you want to make a difference in the life of a child—become a teacher. Your country needs you.

Of course, the education race doesn’t end with a high school diploma. To compete, higher education must be within reach of every American. That’s why we’ve ended the tax- payer subsidies that went to banks, and used the savings to make college affordable for millions of students. And this year, I ask the Congress to go further, and make permanent our tuition tax credit—worth $10,000 for 4 years of college.

Because people need to be able to train for new jobs and careers in today’s fast-changing economy, we are also revitalizing America’s community colleges. Last month, I signed into law the largest single investment in community colleges since the 1960s. It provides $4 billion to fully fund the Pell Grant Promise Zone places. And to spur on more success stories like the Allen Brothers, we’ve begun to reinvent our energy policy. We’re not just handing out money. We’re issuing a challenge. We’re telling America’s scientists that if they assemble teams of the best minds in their fields, and focus on the hardest problems in clean energy, we’ll fund the Apollo Projects of our time.

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Maintaining our leadership in research and technology is crucial to America’s success. But if we want to win the future—if we want innovation to produce jobs in America and not overseas—the government also have to win the race to educate our kids.

Think about it. Over the next 10 years, nearly half of all new jobs will require education that goes beyond a high school degree. And yet, as many as a quarter of our students aren’t even finishing high school. The quality of our math and science education lags behind many other nations. America
businesses to our shores, we need the fastest, most reliable ways to move people, goods, and information—from high-speed rail to high-speed Internet.

Our infrastructure used to be the best—but our lead has slipped. South Korea has more than twice as many high-speed trains as we do. China, which has invested just 1 percent of GDP, has built more high-speed rail than we do. And while we are the largest economy in the world, our nation’s infrastructure is lagging behind.

We need to work quickly to improve it. Let’s get the IT modernization of our federal government on track. Let’s get moving on the Interstate 95 corridor. Let’s get on with the Alaskan railroad. Let’s get on with the high-speed rail system that will cut travel times between New York and Washington by more than half. And let’s move now to complete the long-promised Detroit to Windsor bridge.

We need to invest in 21st-century infrastructure. Within the next 5 years, we will:

1. Complete the long-promised Detroit to Windsor bridge.
2. Make sure every federal agency can conduct business electronically.
3. Extend high-speed Internet to all Americans.
4. Make sure every student can download the design of a burning bee and many other things they need to know.
5. Extend broadband to all Americans.
6. Increase our exports by 25 percent.
7. Invest in critical projects like IT modernization, the Tiger II bridge and a high-speed rail line between New York and Washington.

These investments will mean jobs for the construction industry. They will mean new opportunities for many of you. They will mean new, faster, safer transportation. They will mean new, greener, cleaner energy. They will mean millions of new American jobs.

Let’s get started on this, and let’s get it done before the deficit celebrity comes on TV and tells us what we already know: we can’t afford not to do something.

The federal government is not the only sector that needs a major investment. Business is strapped. The high-tech industries that are driving growth in China don’t rely on tax credits to fill innovation holes. They rely on their ability to innovate and create. They have access to the best capital in the world, and some of the best talent the world has to offer. They have better access to venture capital than we do. And their governments know how to work with the private sector.

America is not the only country that has spent the past decades building up its infrastructure. When we talk about the ‘third world’—they’re not the ones who are going to be the third world. They are the ones who will be the future of our economy.

Our infrastructure used to be the best—but now it’s just average. It’s about to become the worst. Over the last 30 years, we’ve cut spending on infrastructure by more than 30 percent. And spending on schools has dropped even faster. The result is a nation that has the best technology, but with roads and railroads and railways that are some of the worst in the world. It’s about a firefighter who has to fight fires by driving a 1956 Buick with a 1957 engine. It’s about a nurse who has to leave her patient because she can’t get to the hospital. It’s about living in a world where we expect our roads and bridges to last 50 years, but we plan for them to last 20. It’s about buildings that are designed in the 1960s, but have never been fixed.

The America we need is an America that is leading in the 21st century. We need to be investing in the next generation of infrastructure. We need to be working more closely with the private sector to make sure that infrastructure investments are made with the best possible decisions. We need to be working with the states and communities to make sure that they have the best possible infrastructure decisions. We need to be working with the American citizens to make sure that they have the best possible infrastructure decisions.

I recognize that there are some who think that we are over-investing in infrastructure. They think that we are spending too much money on infrastructure. They think that we are spending too much money on schools. They think that we are spending too much money on highways. They think that we are spending too much money on bridges. They think that we are spending too much money on railroads. They think that we are spending too much money on airports.

But I think that there are some who think that we are under-investing in infrastructure. They think that we are not spending enough money on infrastructure. They think that we are not spending enough money on schools. They think that we are not spending enough money on highways. They think that we are not spending enough money on bridges. They think that we are not spending enough money on railroads. They think that we are not spending enough money on airports.

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term deficit. Health insurance reform will slow these rising costs, which is part of why nonpartisan economists have said that repealing the health care law would add a quarter of a trillion dollars to our deficit. Still, I’m willing to look at other ideas to bring down costs, including one that Republicans suggested last year: medical malpractice reform to rein in frivolous lawsuits.

To put us on solid ground, we should also find a bipartisan solution to strengthen our security for future generations. And we must do it without putting at risk current retirees, the most vulnerable, or people with disabilities; without slashing benefits for future generations; and without subjecting Americans’ guaranteed retirement income to the whims of the stock market.

And if we truly care about our deficit, we simply cannot afford a permanent extension of the tax cuts for the wealthiest 2 percent of Americans. Before we take money away from our schools, or scholarships away from our students, we should ask millionaires to give up their tax break.

It’s not a matter of punishing their success. It’s about promoting America’s success.

In fact, the best thing we could do on taxes for all Americans is to simplify the individual tax code. This will be a tough job, but members of both parties have expressed interest in doing this, and I am prepared to join them.

So now is the time to act. Now is the time for both sides and both Houses of Congress—Democrats and Republicans—to forge a principled compromise that gets the job done. If we make the hard choices now to rein in our deficits, we can make the investments we need to win the future.

Let me take this one step further. We shouldn’t just give our people a Government that’s more affordable. We should give them a Government that’s more competent and efficient. We cannot win the future with a Government of the past.

We live and do business in the information age, but the last major reorganization of the Government happened in the age of black and white TV. There are 12 different agencies that deal with exports. There are at least five different entities that deal with housing policy. Then there’s my favorite example: the Interior Department is in charge of salmon while they’re in fresh water, but the Commerce Department handles them in when they’re in saltwater. And I hear it gets even more complicated once they’re smoked.

Now, we have made great strides over the last 2 years in using technology and getting rid of waste. Veterans can now download their electronic medical records with a click of the mouse. We’re selling acres of Federal office records with a click of the mouse. And we will cut through red tape to get rid of waste.

We have also taken the fight to al Qaeda and their allies abroad. In Afghanistan, our troops have taken Taliban strongholds and trained Afghan Security Forces. Our purpose is clear—by preventing the Taliban from reestablishing a stronghold over the Afghan people, we will deny al Qaeda the haven that served as a launching pad for 9/11.

Thanks to our heroic troops and civilians, fewer Afghans are under the control of the insurgency. There will be tough fighting ahead in Afghan territory, but our Government will need to deliver better governance. But we are strengthening the capacity of the Afghan people and building an enduring partnership with them. This year, we will work with nearly 50 countries to begin a transition to an Afghan lead. And this July, we will begin to bring our troops home.

In Pakistan, al Qaeda’s leadership is under more pressure than at any point since 2001. Their leaders and operatives that North Korea keeps its commitment to abandon nuclear weapons. Their safe-havens are shrinking. And we have sent a message from the Afghan border to the Arabian Peninsula to all parts of the globe: we will not relent, we will not waver, and we will defeat you.

American leadership can also be seen in the effort to secure the worst weapons of war. Because Republicans and Democrats approved the New START Treaty, fewer nuclear warheads and launchers will be deployed. Because we rallied the world, nuclear materials are being locked down on every continent, so they never fall into the hands of terrorists.

Because of a diplomatic effort to insist that Iran meet its obligations, the Iranian government now faces tougher and tighter sanctions than ever before. And on the Korean peninsula, we stand with our ally South Korea, and insist that the North Korean government live up to its commitment to abandon nuclear weapons.

This is just a part of how we are shaping a world that favors peace and prosperity. With our European allies, we revitalized NATO, and increased our cooperation on everything from counter-terrorism to missile defense. We have reset our relationship with Russia, strengthened Asian alliances, and built new partnerships with nations like India. This March, I will travel to Brazil, Chile, and El Salvador to forge new alliances for progress in the Americas. Around the globe, we are standing with those who take responsibility—helping farmers grow more food for their families; providing energy for the sick; and combating the corruption that can rot a society and rob people of opportunity.

Recent events have shown us that what sets us apart must not just be our values but our commitment to defend them. In South Sudan—with our assistance—the people were finally able to vote for independence after years of war. Thousands lined up before dawn. People danced in the streets. One man who lost four of his brothers at war summed up the scene around him: “This was a battlefield for most of my life. Now we want to be free.”
We saw that same desire to be free in Tunisia, where the will of the people proved more powerful than the writ of a dictator. And tonight, let us be clear: the United States of America stands with the people of Tunisia, and supports the democratic aspirations of all people.

We must never forget that the things we’ve struggled for, and fought for, live in the hearts of people everywhere. And we must always remember that the American dream bore the weight of this struggle. The burdens in this struggle are the men and women who serve our country.

Tonight, let us speak with one voice in reaffirming that our Nation is united in support of our still small army and their families. Let us serve them as well as they have served us—by giving them the equipment they need; by providing them with the care and benefits they have earned; and by enlisting our veterans in the great task of building our own Nation.

Our troops come from every corner of this country—they are black, white, Latino, Asian, and Native American. They are Christian and Hindu, Jewish and Muslim. And yes, we know that some of them are gay. Starting this year, no American will be forbidden from serving the country they love because of who they love. And with that change, I call on all of our college campuses to open their doors to our military recruiters and the ROTC. It is time to leave behind the divisive battles of the past. It is time to move forward as one Nation.

We should cast no illusions about the work ahead of us. Reforming our schools; changing the way we use energy; reducing our deficit—none of this is easy. All of it will take time. And it will be harder because we will argue about everything. The details. The letter of every law.

Of course, some countries don’t have this problem. If the central government wants a railroad, they get a railroad—no matter how many homes are being bulldozed. If they don’t want a bad business owner shut down, they simply walk away. The facts of life for too many Americans are grim. And today, there are grim reminders.

That dream—that American Dream—is what drove the Allen Brothers to re-invent their roofing company for a new era. It’s what drove those students at Forsyth Tech to learn a new skill and work towards the future. And that dream is the story of a small business owner named Brandon Fisher.

Brandon started a company in Berlin, Pennsylvania, that specializes in a new kind of drilling technology. One day last summer, he saw the news that half a mile down the road, 33 men were trapped in a Chilean mine, and no one knew how to save them.

But Brandon thought his company could help. And so he designed a rescue that would come to be known as Plan B. His employees worked around the clock to manufacture the necessary drilling equipment. And Brandon left for Chile.

Along with others, he began drilling a 2,000 foot hole into the ground, working 30 hour days at a time with no sleep. Thirty-seven days later, Plan B succeeded, and the miners were rescued. But because he didn’t want all of the attention, Brandon wasn’t there when the miners emerged. He had already gone home, back to work on this next project.

Later, one of his employees said of the rescue, “We proved that Center Rock is a little company, but we do big things.”

We do big things.

From the earliest days of our founding, America has been the story of ordinary people who dare to dream. That’s how we win the future. We are a Nation that says, “I might not have a lot of money, but I have this great idea for a new company.” I might not come from a family of college graduates, but I will be the first to get to my degree. I might not know those people in trouble, but I think I can help them, and I need to try.

“I’m not sure how we’ll reach that better place beyond the horizon, but I know we’ll get there. I know we will.”

We do.

The idea of America endures. Our destiny remains our choice. And tonight, more than two centuries later, it is because of our people that our future is hopeful, our journey goes forward, and the state of our Union is strong.

Thank you, God Bless You, and may God Bless the United States of America.

Barack Obama.

The White House, January 25, 2011.

MESSAGES FROM THE HOUSE RECEIVED DURING RECESS

Under the authority of the Speaker of the House of Representatives, received a message from the House of Representatives, announcing that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 2. Concurrent resolution authorizing the use of the rotunda of the Capitol for an event marking the 50th anniversary of the inaugural address of President John F. Kennedy.

MESSAGES FROM THE HOUSE

At 10:03 a.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:


H.R. 392. An act to amend title 44, United States Code, to eliminate the mandatory printing of bills and resolutions for the use of offices of Members of Congress.

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

H. Con. Res. 1. Concurrent resolution regarding consent to assemble outside the seat of government.

H. Con. Res. 10. Concurrent resolution providing for a joint session of Congress to receive a message from the President.

The message further announced that pursuant to 2 U.S.C. 2001, and the order of the Senate of January 5, 2011, the Speaker appointed the following Members to the House Office Building Commission to serve with himself: Mr. CANTOR of Virginia and Ms. PELOSI of California.

At 2:16 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 596. An act to provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958, and for other purposes.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 292. An act to amend title 44, United States Code, to provide for the printing of bills and resolutions for the use of offices of Members of Congress; to the Committee on Rules and Administration.

MATTINGS BEING HELD AT THE DESK

EC-29. A communication from the Secretariat, Division of Investment Management, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled "Amended Amendment of Order Extending Accumulation Period for Compliance Date" (RIN1770–AI17) received during adjournment of the Senate in the Office of the President of the Senate on January 4, 2011; to the Committee on Banking, Housing, and Urban Affairs.


EC-31. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report relative to the North Slope Science Initiative; to the Committee on Energy and Natural Resources.

EC-32. A communication from the Director of the Office of Federal Procurement Policy, transmitting, pursuant to law, the report of a rule entitled "Minority and Women Inclusion" (RIN2590–AA22) received during adjournment of the Senate in the Office of the President of the Senate on January 4, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC-33. A communication from the General Counsel of the Department of Labor, transmitting, pursuant to law, the report of a rule entitled "Regulations Under the Worker Adjustment and Retraining Notification Act, 2010 Actuarial Report on the Financial Outlook for Medicaid"); to the Committee on Finance.

EC-34. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "Children's Health Care Quality in Medicaid and CHIP"); to the Committee on Finance.

EC-35. A communication from the Assistant Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "Medicaid and CHIP Annual Report on the Status of Medicaid and CHIP Services"); to the Committee on Finance.

EC-36. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "Federal Home Loan Bank System. A communication from the General Counsel of the Federal Housing Finance Agency, transmitting, pursuant to law, the report of a rule entitled "Corporate Credit Administration, transmitting, pursuant to law, a report relative to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the export of defense articles, to include technical data, and defense services; to the Committee on Armed Services.


EC-38. A communication from the Inspector General for Tax Administration, Department of the Treasury, transmitting, pursuant to law, a report relative to the extension and amendment of the Agreement Between the Government of the United States of America and the Government of the Republic of Nicaragua Concerning the Importation of Import Restrictions on Archaeological Material from the Pre-Hispanic Cultures of the Republic of Nicaragua, to the Committee on Finance.

EC-39. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to law, a report of a rule entitled "Visas: Waiver for Ineligible Nonimmigrants under INA 212(a)(3)(A), as Amended; Applicants Ineligible under INA 212(a)(3)(E)(i)ii) (22 CFR Part 40) received during adjournment of the Senate in the Office of the President of the Senate on January 3, 2011; to the Committee on Foreign Relations.

EC-40. A communication from the Secretary of State, transmitting, pursuant to law, an annual report relative to the Ben B. Gilman International Scholarship Program for 2010; to the Committee on Foreign Relations.

EC-41. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to law, a report of a rule entitled "2010 Actuarial Report on the Financial Outlook for Medicaid"); to the Committee on Finance.

EC-42. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to law, an annual report relative to the Ben B. Gilman International Scholarship Program for 2010; to the Committee on Foreign Relations.

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EC-74. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to law, an annual report relative to the Ben B. Gilman International Scholarship Program for 2010; to the Committee on Foreign Relations.
EC–45. A communication from the Deputy Director for Operations, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled “Location of Assets in Single-Employer Plans; Valuation of Benefits and Assets; Expected Retirement Age” (29 CFR Part 4044) received during adjournment of the Senate in the Office of the President of the Senate on January 4, 2011; to the Committee on Health, Education, Labor, and Pensions.

EC–46. A communication from the Deputy Director for Operations, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled “Technical Correction: Computation of Entry and Entry Summary—Declaration of Value” (RIN1515–AD61) received during adjournment of the Senate in the Office of the President of the Senate on January 4, 2011; to the Committee on Homeland Security and Governmental Affairs.

EC–55. A communication from the Principal Deputy Assistant Attorney General, Civil Rights Division, Department of Justice, transmitting, pursuant to law, the report of a rule entitled “Nondiscrimination on the Basis of Disability in State and Local Government Services, Programs, and Activities” (RIN1190–AA46) received during adjournment of the Senate in the Office of the President of the Senate on January 4, 2011; to the Committee on Homeland Security and Governmental Affairs.

EC–56. A communication from the Chief Privacy Officer, Department of Homeland Security, transmitting, pursuant to law, a report entitled “2010 Data Mining Report to Congress”; to the Committee on the Judiciary.

EC–57. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, the second quarter of fiscal year 2010 report of the Deputy Attorney General, Office of Legislative Affairs, Department of Justice’s Office of Privacy and Civil Liberties; to the Committee on the Judiciary.

EC–58. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law an annual report relative to recommendations of the Federal Managers’ Advisory Council; to the Committee on Homeland Security and Governmental Affairs.

EC–59. A communication from the Chair of the Board of Directors, Office of Compliance, transmitting, pursuant to Section 102(b) of the Congressional Accountability Act of 1995 (CAA) a report relative to recommendations for improvements in the Congressional Accountability Act; to the Committee on Rules and Administration.

EC–60. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “2-Propenoic Acid, Methyl Ester, Polyunsaturated (2–10 Carbon; Sodium Salts; Tolerance Exemption” (FRL 2011–138) received during adjournment of the Senate in the Office of the President of the Senate on January 4, 2011; to the Committee on Commerce, Science, and Transportation.

EC–62. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Emergency Rule Extension, Pollock Catch Limit Revisions” (RIN0648–AW86) received during adjournment of the Senate in the Office of the President of the Senate on January 4, 2011; to the Committee on Commerce, Science, and Transportation.

EC–63. A communication from the Chairman of the Board of Directors, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, a report relative to the Board’s competitive sourcing of contracts for fiscal year 2010; to the Committee on Commerce, Science, and Transportation.

EC–64. A communication from the Deputy Assistant Administrator for Regulatory Programs, NOAA, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Trends in the Western Portion of the Northeastern United States; Northeast Multispecies Fishery; Final Rule to Implement Addenda to 17 Fishing Year (Heron-Steveson-Veit) Fishery Management Measures Off West Coast States; Pacific Coast Groundfish Fishery; Inseason Adjustments to Fishery Management Measures” (RIN0648–AA09) (Docket No. USCG–2009–0228)) received during adjournment of the Senate in the Office of the President of the Senate on July 19, 2011; to the Committee on Commerce, Science, and Transportation.

EC–65. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled “Drawbridge Operation Regulation; Arkan- sas River, Little Rock, AR” (RIN0652–AA09) received during adjournment of the Senate in the Office of the President of the Senate on January 4, 2011; to the Committee on Commerce, Science, and Transportation.

EC–66. A communication from the Secretary of Commerce, transmitting, pursuant to law, the Annual Report of the Year 2010 of the Department of Commerce’s Bureau of Industry and Security; to the Committee on Commerce, Science, and Transportation.

EC–67. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “2–Propenoic Acid, Methyl Ester, Polyunsaturated (2–10 Carbon; Sodium Salts; Tolerance Exemption” (FRL No . 8114–9) received during adjournment of the Senate in the Office of the President of the Senate on January 13, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC–68. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, a report of rules entitled “Asian Longhorned Beetle; Additions to Quarantined Areas in Massachusetts and New York” (Docket No. APHIS–2009–0014) received during adjournment of the Senate in the Office of the President of the Senate on January 3, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC–69. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled “Pipe Shoot Beetle; Additions to Quarantined Areas” (Docket No. APHIS–2008–0111) received during adjournment of the Senate in the Office of the President of the Senate on January 13, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC–71. A communication from the Director, Office of Science and Technology, Executive Director, Office of Planning, and Pensions, Department of the Interior, transmitting, pursuant to law, a report relative to a violation of the Antideficiency Act that occurred during adjournment of the Senate in the Office of the President of the Senate on January 4, 2011; to the Committee on Appropriations.  

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within the Office of Science and Technology over a four-year period and involved multiple transactions; to the Committee on Appropriations.

EC–73. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, a report relative to counter-terrorism activities supported with counternarcotics funding for fiscal year 2010; to the Committee on Armed Services.

EC–74. A communication from the Assistant Secretary of Defense, Bureau of Political-Military Affairs, Department of State, transmitting, pursuant to law, an addendum to a certification, transmittal number: DDTC 10–141, of the proposed sale or export of defense articles, including technical data, and defense services to a Middle East country regarding any possible arms sales, transactions, or services relating to Israel's Qualitative Military Edge over military threats to Israel; to the Committee on Armed Services.

EC–75. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, a report relative to detainee movement (OSS Control No. 2010–9036); to the Committee on Armed Services.

EC–76. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, a report relative to the Mine Resistant Ambush Protected (MRAP) vehicle, including technical data, and defense services to the Secretary, Department of Defense, pursuant to law, a report relative to the Joint Improvements/Low-Intensity Conflict and Interdiction Munition (JIM) program; to the Committee on Appropriations.

EC–77. A communication from the Assistant Secretary of Defense (Special Operations) to the Committee on Armed Services, transmitting, pursuant to law, a report relative to counter-terrorist activities supported with counternarcotics funding for fiscal year 2010; to the Committee on Armed Services.

EC–78. A communication from the General Counsel of the National Credit Union Administration, transmitting, pursuant to law, the report of a rule entitled “Fiduciary Duties at Federal Credit Unions; Mergers and Conversions of Insured Credit Unions” (RIN1351–AD40) received during adjournment of the Senate in the Office of the President of the Senate on January 13, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–79. A communication from the Chairman of the Federal Energy Regulatory Commission, transmitting, pursuant to law, a report relative to the status of all extensions granted by Congress regarding the requirements of Section 13 of the Federal Power Act; to the Committee on Energy and Natural Resources.

EC–80. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report relative to the acceptance by the Secretary of the Interior of a title to a tract of land near the boundary between the State of California that will complement the Bright Star Wilderness; to the Committee on Energy and Natural Resources.

EC–81. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “EPAAR Prescription and Solicitation Provision—EPAAR Green Meetings and Conferences” (FRL No. 9250–8) received during adjournment of the Senate in the Office of the President of the Senate on January 13, 2011; to the Committee on Environment and Public Works.

EC–82. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Religious Liberty, and International Affairs, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Proposed Rule—Air Quality Standards for New and Existing Sources; Iodine-131 in the Air and Drinking Water” (FRL No. 9251–1) received during adjournment of the Senate in the Office of the President of the Senate on January 13, 2011; to the Committee on Environment and Public Works.

EC–83. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Approval and Promulgation of Air Quality Implementation Plans; Virginia: Amendments to Existing Regulation Provisions Concerning Case-by-Case Reasonably Available Control Technology” (FRL No. 9251–2) received during adjournment of the Senate in the Office of the President of the Senate on January 13, 2011; to the Committee on Environment and Public Works.

EC–84. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Approval and Promulgation of Air Quality Implementation Plans; Virginia: Development of Reasonably Available Control Technology and Related Reference Conditions, and Update of Appendices” (FRL No. 9251–9) received during adjournment of the Senate in the Office of the President of the Senate on January 13, 2011; to the Committee on Environment and Public Works.

EC–85. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Approval and Promulgation of Air Quality Implementation Plans; Minnesota: Prevention of Significant Deterioration; Nitrogen Oxides as a Precursor to Ozone; Correction” (FRL No. 9252–4) received during adjournment of the Senate in the Office of the President of the Senate on January 13, 2011; to the Committee on Environment and Public Works.

EC–86. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Determination of Attainment by the Applicable Attainment Date for the Hayden, Arizona, PM10 Nonattainment Areas, Arizona” (FRL No. 9250–1) received during adjournment of the Senate in the Office of the President of the Senate on January 13, 2011; to the Committee on Environment and Public Works.

EC–87. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Amendments to Regulation of Operating Permits Program; State of Missouri” (FRL No. 9248–6) received during adjournment of the Senate in the Office of the President of the Senate on January 13, 2011; to the Committee on Environment and Public Works.

EC–88. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Approval of Air Pollutants for Source Categories: Hazardous Air Pollutants for Source Categories: Greenhouse Gas Emissions: Federal Implementation Plan and Operating Permits” (FRL No. 9253–3) received during adjournment of the Senate in the Office of the President of the Senate on January 13, 2011; to the Committee on Environment and Public Works.

EC–89. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Action to Ensure Authority to Issue Permits under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Federal Implementation Plan and Operating Permits” (FRL No. 9253–2) received during adjournment of the Senate in the Office of the President of the Senate on January 13, 2011; to the Committee on Environment and Public Works.

EC–90. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Available Control Technology” (Rev. Proc. 2011–16) received during adjournment of the Senate in the Office of the President of the Senate on January 13, 2011; to the Committee on Finance.

EC–91. 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 “Amendments to Regulations of Domestic Instruments” (RIN1545–BS6) received during adjournment of the Senate in the Office of the President of the Senate on January 13, 2011; to the Committee on Finance.

EC–92. 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 “Real Estate Investment Trust (REIT) Distressed Debt” (Rev. Proc. 2011–16) received during adjournment of the Senate in the Office of the President of the Senate on January 13, 2011; to the Committee on Finance.

EC–93. 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 “Real Estate Investment Trust (REIT) Distressed Debt” (Rev. Proc. 2011–16) received during adjournment of the Senate in the Office of the President of the Senate on January 13, 2011; to the Committee on Finance.

EC–94. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Amendments to Regulations of Domestic Instruments” (RIN1545–BS6) received during adjournment of the Senate in the Office of the President of the Senate on January 13, 2011; to the Committee on Finance.
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EC-96. A communication from the Chief of the Trade and Commercial Regulations Branch, Customs and Border Protection, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Extension of Import Restrictions Imposed on Archaeological Material Originating in Italy and Representing the Prehistoric and Imperial Roman Emperors (RIN1515-AD72)" received during adjournment of the Senate in the Office of the President of the Senate on January 13, 2011; to the Committee on Homeland Security and Governmental Affairs.

EC-97. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to law, (6) six reports relative to vacancies in the Department of State, received during adjournment of the Senate in the Office of the President of the Senate on January 13, 2011; to the Committee on Foreign Relations.

EC-98. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed technical assistance agreement for the export of defense articles, to include technical data, and defense services to Finland for the depot level maintenance and overhaul of F404-GE-402 gas turbine engines of $560,000,000 or more; to the Committee on Foreign Relations.

EC-100. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to the elimination of the Danger Pay Allowance for Haiti; to the Committee on Foreign Relations.

EC-103. A communication from the Administrator, Rural Business-Cooperative Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Biorefinery Assistance Guaranteed Loans (RIN0570-AA73)" received during adjournment of the Senate in the Office of the President of the Senate on January 24, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC-101. A communication from the Administrator, Rural Business-Cooperative Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Advanced Biofuel Payment Program (RIN0570-AA75)" received during adjournment of the Senate in the Office of the President of the Senate on January 24, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC-102. A communication from the Administrator, Rural Business-Cooperative Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Biofuel Assistance Guaranteed Loans (RIN0570-AA73)" received during adjournment of the Senate in the Office of the President of the Senate on January 24, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC-103. A communication from the Administrator, Customs and Border Protection, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Repowering Assistance Payments to the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-568 "Office of Cable Television Property Acquisition and Special Purpose Revenue Reprogramming Temporary Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-104. A communication from the Chair- man of the Council of the District of Colum- bia, transmitting, pursuant to law, a report on D.C. Act 18-566 "Randall School Disposi- tion Restatement Temporary Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.


EC-107. A communication from the Chair- man of the Council of the District of Colum- bia, transmitting, pursuant to law, a report on D.C. Act 18-567 "University of the District of Columbia Board of Trustees Quorum and Contracting Reform Temporary Amendment Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-108. A communication from the Chair- man of the Council of the District of Colum- bia, transmitting, pursuant to law, a report on D.C. Act 18-568 "Budget Support Act Clarification and Technical Amendment Temporary Amendment Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.


EC-111. A communication from the Chair- man of the Council of the District of Colum- bia, transmitting, pursuant to law, a report on D.C. Act 18-596 "University of the District of Columbia Board of Trustees Quorum and Contracting Reform Amendment Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.


EC-113. A communication from the Chair- man of the Council of the District of Colum- bia, transmitting, pursuant to law, a report on D.C. Act 18-622 "Special Election Reform Charter Temporary Amendment Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.


EC-115. A communication from the Chair- man of the Council of the District of Colum- bia, transmitting, pursuant to law, a report on D.C. Act 18-624 "Special Election Reform Charter Temporary Amendment Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.


INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. REID of Nevada (for himself, Mr. DURbin, Mr. BEGICH, Mrs. GILLIBRAND, Mr. COONS, Mrs. BOXER, Mr. LAUTenberg, Mr. BRICh, Mrs. SHaHEEN, and Mr. AKAKA):

S. 1. A bill to strengthen the economic competitiveness of the United States; to the Committee on Finance.

By Mr. REID of Nevada (for himself, Mr. DURbin, Mr. FHWEN, Mr. BROWN of Ohio, Mrs. KERRY, Mrs. GILLIBRAND, Mrs. BOXER, Mr. LAUTenberg, and Mr. AKAKA):

S. 2. A bill to help middle class families succeed; to the Committee on Finance.

By Mr. REID of Nevada (for himself, Mr. DURbin, Mrs. FENWESTEN, Mr. BROWN of Ohio, Mr. KERRY, Mrs. GILLIBRAND, Mrs. BOXER, and Mrs. SHaHEEN):

S. 3. A bill to promote fiscal responsibility and control spending; to the Committee on Finance.

By Mr. REID of Nevada (for himself, Mr. BINGAMAN, Mr. BROWN of Ohio, Mr. DURbin, Mr. KERRY, Mr. BENNET, Mrs. GILLIBRAND, Mr. COONS, Mrs. BOXER, Mr. LAUTenberg, Mrs. SHaHEEN, and Mr. AKAKA):

S. 4. A bill to make America the world's leader in clean energy; to the Committee on Finance.

By Mr. REID of Nevada (for himself, Mr. DURbin, Mr. WYDEN, Ms. BROWN of Ohio, Mr. BENNET, Mrs. GILLIBRAND, Mr. COONS, Mr. INouYE,
S. 17. A bill to repeal the job—killing tax on medical devices to ensure continued access to life—saving medical devices for patients and maintain the standing of United States as the leader in medical device innovation; to the Committee on Finance.

By Mr. JOHANNES (for himself, Mr. MANCINI, Mr. ALEXANDER, Ms. AVOTTA, Mr. HARKIN, Mr. BURB, Mr. BECHTLE, Mr. BENNET, Mr. BLUNT, Mr. BOOZMAN, Mr. BROWN of Massachusetts, Mr. BURR, Mr. CHAMBLISS, Mr. COATS, Mr. CORNHYNE, Mr. COLLINS, Mr. CORKER, Mr. CORYN, Mr. CRAPO, Mr. ENNIS, Mr. ENZI, Mr. GRAHAM, Mr. GRASSLEY, Mr. HAGAN, Mr. HAYEN, Mrs. HATCH, Mr. INISHOF, Mr. ISAKSON, Ms. KLOBUCHAR, Mr. KYL, Mr. LEE, Mr. LUGAR, Mr. MCCAIN, Mr. MCCONNELL, Mr. MORAN, Ms. MURkowski, Mr. Nelson of Nebraska, Mr. PORTMAN, Mr. Risch, Mr. ROBERTS, Ms. SNOWE, Mr. STABENOW, Mr. TESTER, Mr. THUNE, Mr. UDAAL of Colorado, Mr. WARRICK, Mr. CORKER, Mr. COBURN, Mr. SHELBY, Mr. VITTER, Mr. KIRK, Mr. SESSIONS, Mr. WARNER, Mr. PHYOR, Mr. HATCH, Mr. NELSON of Florida, Mr. TOOMEY, Ms. McCaskill).

S. 18. A bill to repeal the expansion of information reporting requirements for payments of $600 or more to corporations and for other purposes; to the Committee on Finance.

By Mr. HATCH (for himself, Mr. JOHANNES, Mr. BARRASSO, Mr. RISCH, Mr. INISHOF, Mr. BURR, Mr. CORNHYNE, Mr. KIRK, Mr. CRAPO, Mr. PORTMAN, Mr. CHAMBLISS, Mr. KYL, Mr. ENZI, Mrs. HUTCHISON, Mr. ROBERTS, Mr. CORKER, Mr. CORNYN, Mr. COATS, Mr. BLUNT, Mr. MCCAIN, Mr. ISAKSON, Mr. CORKER, and Mr. ENNIS):

S. 19. A bill to restore American’s individual liberty by striking the Federal mandate to purchase insurance; to the Committee on Finance.

By Mr. HATCH (for himself, Mr. JOHANNES, Mr. WICKER, Mr. BARRASSO, Mr. RISCH, Mr. INISHOF, Mr. BURR, Mr. CORNHYNE, Mr. KIRK, Mr. CRAPO, Mr. PORTMAN, Mr. CHAMBLISS, Mr. KYL, Mr. ENZI, Mrs. HUTCHISON, Mr. ROBERTS, Mr. CORKER, Mr. CORNYN, Mr. COATS, Mr. BLUNT, Mr. MCCAIN, Mr. ISAKSON, Mr. CORKER, and Mr. AYOTTO):

S. 20. A bill to protect American job creation by striking the job-killer Federal employer mandate; to the Committee on Finance.

By Mr. REID of Nevada (for himself, Mr. FEINSTEIN, Mr. KIRK, Mr. LEARY, Mr. LEVIN, Mr. LIEBERMAN, Mr. ROCKEFELLER, and Mr. BINGAMAN):

S. 21. A bill to secure the United States against cyber attacks and enhance American competitiveness and create jobs in the information technology industry, and to protect the identities and sensitive information of American citizens; to the Committee on Homeland Security and Governmental Affairs.

By Mrs. GILLIBRAND:

S. 22. A bill to amend the Internal Revenue Code of 1986 to permanently extend and expand the additional standard deduction for property taxes for nonitemizers; to the Committee on Finance.

By Mr. LEAHY (for himself, Mr. HATCH, Mr. GRASSLEY, Ms. KLOBUCHAR, Mr. MENNEN, Mr. KYL, Mr. LIEBERMAN, and Mr. COONS):

S. 23. A bill to amend title 35, United States Code, to provide for patent reform; to the Committee on the Judiciary.

By Ms. CANTWELL (for herself, Mr. ENNIS, Mrs. MURRAY, Mr. RIEDE of Nevada, Mr. ALEXANDER, and Mr. NELSON of Florida):

S. 24. A bill to amend the Internal Revenue Code of 1986 to permanently extend the election to deduct State and local sales taxes; to the Committee on Finance.

By Mrs. SHAHEEN (for herself, Mr. KIRK, and Mr. DURBIN):

S. 25. A bill to phase out the Federal sugar program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mrs. SHAHEEN:

S. 26. A bill to amend the Internal Revenue Code of 1986 to repeal the percentage depletion allowance for certain hardrock minerals, and to use the resulting revenues from such repeal for deficit reduction; to the Committee on Finance.

By Mr. KOHL (for himself, Mr. GRASSLEY, Mr. DURBIN, Ms. COLLINS, Ms. KLOBUCHAR, Mr. FRANKEN, Mr. BROWN of Ohio, and Mr. SANDERS):

S. 27. A bill to prohibit brand name drug companies from compensating generic drug companies to delay the entry of a generic drug into the market; to the Committee on the Judiciary.

By Mr. ROCKEFELLER (for himself, Mr. LAUTENBERG, Mr. NELSON of Florida, Ms. KLOBUCHAR, Mr. CARDIN, and Mr. MARKEY):

S. 28. A bill to amend the Communications Act of 1934 to provide public safety providers an additional 10 megahertz of spectrum to support a national, interoperable wireless broadband network and authorize the Federal Communications Commission to hold incentive auctions to provide funding to support such a network, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. REID of Nevada (for Mrs. FEINSTEIN and herself and Mrs. BOXER):

S. 29. A bill to establish the Sacramento—San Joaquin Delta National Heritage Area; to the Committee on Energy and Natural Resources.

By Ms. LANDRIEU (for herself, Mr. VITTER, Mr. COCHRAN, Mr. SHELBY, Mr. BAUCUS, and Mr. WICKER):

S. 30. A bill to amend the Internal Revenue Code of 1986 to provide an additional year for the extension of the placed in service date for wind energy production, as applicable to the GO Zone; to the Committee on Finance.

By Mr. FRANKEN:

S. 31. A bill to amend part D of title XVIII of the Social Security Act to authorize the Secretary of Health and Human Services to negotiate for lower prices for Medicare prescription drugs; to the Committee on Finance.

By Mr. LAUTENBERG (for himself, Mrs. FEINSTEIN, Mr. MENENDEZ, Mrs. BROWN of Rhode Island, Mr. LEVIN, Mr. FRANKEN, Mr. SCHUMER, and Mr. DURBIN):

S. 32. A bill to prohibit the transfer or possession of large capacity ammunition feeding devices, and for other purposes; to the Committee on the Judiciary.

By Mr. LIEBERMAN (for himself, Mr. SANDERS, Mr. REED of Rhode Island, Mrs. BOXER, Mr. UDALL of Colorado, Mr. HARKIN, Mr. BENNET, Mr. KOWL, Mr. UDALL of New Mexico, Mr. CARDIN, Ms. CANTWELL, Mrs. MURRAY, Mr. WHITTLEHOUSE, Mr. LEAHY, Mrs. FEINSTEIN, Ms. KLOBUCHAR, Mr. KIRK, Mr. DURBIN, Mr. WYDEN, and Mr. LAUTENBERG):

S. 33. A bill to designate a portion of the Arctic National Wildlife Refuge as wilderness; to the Committee on Environment and Public Works.
By Mr. LAUTENBERG (for himself, Mr. MENENDEZ, Mrs. FRANKSTEIN, Mr. WHITEHOUSE, Mr. REED of Rhode Island, Mr. LEVIN, Mr. SCHUMER, Mr. BOXER, Mr. DURBIN, Mr. BROWN of Ohio, and Mr. HARKIN):

S. 34. A bill to increase public safety by permitting the Attorney General to deny the transfer of firearms or the issuance of firearms licenses to known or suspected dangerous terrorists; to the Committee on the Judiciary.

By Mr. LAUTENBERG (for himself, Mr. MENENDEZ, Mrs. FRANKSTEIN, Mr. WHITEHOUSE, Mr. REED of Rhode Island, Mr. LEVIN, Mr. SCHUMER, Mr. DURBIN, Mrs. BOXER, and Mr. WHITAKER):

S. 35. A bill to establish background check procedures for gun shows; to the Committee on the Judiciary.

By Mr. INOUYE:

S. 36. A bill to amend title XIX of the Social Security Act to provide 100 percent reimbursement for medical assistance provided to a Native Hawaiian through a Federally-qualified health center or a Native Hawaiian health care system; to the Committee on Finance.

By Mr. INOUYE:

S. 37. A bill to amend title XVIII of the Social Security Act to remove the restriction that a clinical psychologist or clinical social worker provide services in a comprehensive outpatient rehabilitation facility to a patient only under the care of a physician; to the Committee on Finance.

By Mr. INOUYE:

S. 38. A bill to amend title XVIII of the Social Security Act to provide improved reimbursement for clinical social work services under the Medicare program; to the Committee on Finance.

By Mr. INOUYE:

S. 39. A bill to amend title VII of the Public Health Service Act to make certain graduate programs in professional psychology eligible to participate in various health professions loan programs; to the Committee on Health, Education, Labor, and Pensions.

By Mr. INOUYE:

S. 40. A bill to amend the Public Health Service Act to promote mental and behavioral health services for underserved populations; to the Committee on Health, Education, Labor, and Pensions.

By Mr. INOUYE:

S. 41. A bill to amend the Public Health Service Act to provide for the establishment of a National Social Work Research; to the Committee on Health, Education, Labor, and Pensions.

By Mr. INOUYE:

S. 42. A bill to amend title VII of the Public Health Service Act to ensure that social work students or social work schools are eligible for support under certain programs that provide financial assistance to individuals in pursuing health careers or for grants for training projects in geriatrics, and to establish a social work training program; to the Committee on Health, Education, Labor, and Pensions.

By Ms. KLOBUCHAR (for herself and Mr. BROWNI)

S. 44. A bill to amend part D of title XVIII of the Social Security Act to require the Secretary of Health and Human Services to negotiate covered part D drug prices on behalf of Medicare beneficiaries; to the Committee on Finance.

By Mr. WHITEHOUSE (for himself, Mr. LEAHY, Mr. SANDERS, Mrs. BOXER, Mr. DURBIN, Mr. BROWN of Ohio, and Mr. HARKIN):

S. 45. A bill to amend the Internal Revenue Code of 1986 to provide for the taxation of income from certain partnerships attributable for imported property; to the Committee on Finance.

By Mr. INOUYE (for himself, Mr. ROGERS of Texas, Mrs. KERRY, Mr. SNOWE, and Mr. NELSON of Florida):

S. 46. A bill to reauthorize the Coral Reef Conservation Act of 2000, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. INOUYE:

S. 47. A bill to amend chapter 81 of title 5, United States Code, to authorize the use of clinical social workers to conduct evaluations to determine work-related emotional and mental impairments; to the Committee on Homeland Security and Governmental Affairs.

By Mr. INOUYE (for himself, Mr. REED of Rhode Island, and Mr. BROWNI):

S. 48. A bill to amend the Public Health Service Act to provide for the participation of pharmacists in National Health Services Corps programs for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. REID (for himself, Mr. VITTER, Mr. HATCH, Mr. KLOBUCHAR, Mr. FRANKEN, and Mr. TESTER):

S. 49. A bill to amend the Federal antitrust laws to provide expanded coverage and to eliminate exemptions from such laws that are contrary to the public interest with respect to railroads; to the Committee on the Judiciary.

By Mr. INOUYE (for himself, Ms. SNOWE, and Mr. VITTER):

S. 50. A bill to strengthen Federal consumer product safety programs and activities with respect to commercially-marketed seafood by directing the Secretary of Commerce to coordinate with the Federal Trade Commission and other appropriate Federal agencies to strengthen and coordinate those programs and activities; to the Committee on Commerce, Science, and Transportation.

By Mr. INOUYE:

S. 51. A bill to amend the Public Health Service Act to provide health care practitioners in rural areas with training in preventive health care, including both physical and mental care, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. INOUYE (for himself, Mr. ROCKEFELLER, Mr. KERRY, Ms. SNOWE, and Ms. CANTWELL):

S. 52. A bill to establish uniform administrative and enforcement procedures and penalties for the enforcement of the High Seas Driftnet Fishing Moratorium Protection Act and supplemental Acts, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. INOUYE (for himself and Mr. REED of Rhode Island):

S. 53. A bill to express the sense of the Senate concerning the establishment of Doctor of Nursing Practice and Doctor of Pharmacy dual degree programs; to the Committee on Health, Education, Labor, and Pensions.

By Mr. INOUYE:

S. 54. A bill to implement demonstration projects at federally qualified community health centers to promote universal access to family centered, evidence-based behavior health services for nursing home residents, and for other purposes; to the Committee on Finance.

By Mr. WHITEHOUSE (for himself, Mr. LEAHY, Mr. SANDERS, Mrs. BOXER, Mr. DURBIN, Mr. BROWN of Ohio, and Mr. HARKIN):

S. 55. A bill to amend title XIX of the Social Security Act to provide for coverage of services provided by nursing school clinics for the Medicare Medicaid programs; to the Committee on Finance.

By Mr. INOUYE:

S. 56. A bill to amend title XIX of the Social Security Act to appropriate funds to advance practice nurses and physician assistants under the Medicare Program; to the Committee on Finance.

By Mr. INOUYE:

S. 57. A bill to amend the Internal Revenue Code of 1986 to modify the application of the certain caption vessels; to the Committee on Finance.

By Mr. INOUYE:

S. 58. A bill to amend title XVIII of the Social Security Act to provide for patient protection by establishing safe nursing staffing levels at certain Medicare providers, and for other purposes; to the Committee on Finance.

By Mr. INOUYE:

S. 59. A bill to treat certain hospital support organizations as qualified organizations for purposes of determining acquisition indebtedness; to the Committee on Finance.

By Mr. INOUYE:

S. 60. A bill to provide relief to the Pottawatomi Nation in Canada for settlement of certain claims against the United States; to the Committee on the Judiciary.

By Mr. INOUYE (for himself, Mr. MURKOWSKI, and Mr. BINGHAM):

S. 61. A bill to establish a Native American Economic Advisory Council, and for other purposes; to the Committee on Indian Affairs.

By Mr. INOUYE:

S. 62. A bill to amend the Federal Deposit Insurance Corporation Act to modify requirements relating to the location of bank branches on Indian reservations, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. INOUYE:

S. 63. A bill to require the Secretary of the Army to determine the validity of the claims of certain Filipinos that they performed military service on behalf of the United States during World War II; to the Committee on Veterans' Affairs.

By Mr. INOUYE:

S. 64. A bill to establish a fact-finding Commission to extend the study of a prior Commission to investigate and determine circumstances surrounding the relocation, internment, and deportation to Axis countries of Latin Americans of Japanese descent from December 1941 through February 1946, and the impact of those actions by the United States, and to recommend appropriate remedies, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. INOUYE:

S. 65. A bill to reauthorize the programs of the Department of Housing and Urban Development for housing assistance for Native Hawaiians; to the Committee on Indian Affairs.

By Mr. INOUYE:

S. 66. A bill to amend the Native Hawaiian Health Care Improvement Act to revise and extend that Act; to the Committee on Indian Affairs.

By Mr. INOUYE:

S. 67. A bill to amend title 10, United States Code, to permit former members of the Armed Forces who have a service-connected disability rated as total to travel on military aircraft in the same manner and to the same extent as retired members of the Armed Forces, as well as to carry such aircraft; to the Committee on Armed Services.
By Mr. INOUYE:
S. 68. A bill to amend title 10, United States Code, to authorize certain disabled former prisoners of war to use Department of Defense and other federal and state or local public goodwill or nonpublic institutions for the benefit of all veterans: to the Senate Committee on Veterans' Affairs.

By Mr. TESTER:
S. 77. A bill to amend the Consumer Product Safety Improvement Act of 2008 to exclude secondary sales, repair services, and Certain vehicles from the ban on lead in children’s products, and for other purposes: to the Senate Committee on Commerce, Science, and Transportation.

By Mr. INOUYE:
S. 70. A bill to restore the traditional day of observance of Memorial Day, and for other purposes: to the Senate Committee on the Judiciary.

By Mr. INOUYE:
S. 71. A bill to amend the Public Health Service Act to provide for health data regarding Native Hawaiians and other Pacific Islanders; to the Committee on Indian Affairs.

By Mr. BAUCUS (for himself, Mr. REID of Nevada, Mr. Brown of Massachusetts, Mr. Brown of Ohio, Mr. Baucus, Mr. Cardin, Ms. Landrieu, Mr. Nelson of Nebraska, Mr. Stabenow, Mr. Shaheen, Mr. Menendez, Mr. Rockefeller, Ms. Cantwell, Mr. Manchin, Mr. Coons, and Mr. Franken):
S. 74. A bill to preserve the open and free nature of the Internet, expand the benefits of broadband, and promote universally available and affordable broadband service; to the Committee on Commerce, Science, and Transportation.

By Mr. KOHL (for himself, Mrs. Feinstein, Mr. Durbin, Mr. Whitehouse, Mr. Van Hollen, Mr. Franken, and Mr. Wyden):
S. 75. A bill to restore the rule that agreements between manufacturers and retailers, distributors, or wholesalers to set the minimum price below which the manufacturer’s product or service cannot be sold violates the Sherman Act; to the Committee on the Judiciary.

By Mrs. BOXER (for herself and Mr. Crapo):
S. 76. A bill to direct the Administrator of the Environmental Protection Agency to investigate and address cancer and disease clusters, including in infants and children; to the Committee on Environment and Public Works.

By Mrs. BOXER (for herself and Mrs. Klobuchar):
S. 78. A bill to amend the Safe Drinking Water Act to protect the health of pregnant women, infants, and children, by requiring a health advisory and drinking water standard for hexavalent chromium; to the Committee on Environment and Public Works.

By Mrs. HUTCHISON (for herself, Mr. Breaux, Mr. Barrasso, Mr. Corrigan, Mr. Alexander, Mr. Enzi, and Mr. Thune):
S. 80. A bill to provide a permanent deduction for State and local general sales taxes; to the Committee on Finance.

By Mr. ISAKSON (for himself, Mr. Nelson of Nebraska, Mr. Johanns, Mr. Burr, Mr. Wicker, Mr. Barrasso, Mr. Collins, Mr. Enzi, Mr. Johnson of Wisconsin, Mr. Paul, Mr. Crapo, Mr. Thune, Mr. Brown of Massachusetts, and Mr. Graham):
S. 81. A bill to direct unused appropriations for Senate Official Personnel and Office Expense Accounts to be deposited in the Treasury and used for deficit reduction or to reduce the Federal debt; to the Committee on Rules and Administration.

By Mr. JOHANNS (for himself, Ms. Klobuchar, Mrs. Hutchison, Mr. Burr, Mr. Casey, and Mr. Thune):
S. 82. A bill to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to the expansion of the adoption credit and adoption assistance programs, to repeal the sunset of the Patient Protection and Affordable Care Act with respect to certain limitations for such credit and programs, and to allow the adoption credit to be claimed in the year expenses are incurred, regardless of when the adoption becomes final; to the Committee on Finance.

By Mr. VITTER:
S. 83. A bill to amend title IV of the Social Security Act to require States to implement a drug testing program for applicants for and recipients of assistance under the Temporary Assistance for Needy Families Program and to pay back program costs that were paid by the Federal Government if the program is not implemented; to the Committee on Finance.

By Mr. JOHANNS:
S. 85. A bill to amend the Internal Revenue Code of 1986 to allow refunds of Federal motor fuel excise taxes on fuels used in mobile mammography vehicles; to the Committee on Finance.

By Mr. ROBERTS (for himself and Mr. Moran):
S. 87. A bill to authorize and request the President to award the Medal of Honor posthumously to Captain Emil Kaupan of the United States Army for acts of valor during the Korean War; to the Committee on Armed Services.

By Mr. VITTER:
S. 95. A bill to amend the Internal Revenue Code of 1986 to allow a Federal income tax credit for certain stem cell research expenditures; to the Committee on Finance.

By Mr. VITTER:
S. 96. A bill to extend the Energy Independence and Security Act of 2007 with respect to biofuel credits; to the Committee on Finance.

By Mr. VITTER:
S. 97. A bill to provide for an earlier start of the reauthorization process for the Federal Water Pollution Control Act; to the Committee on Environment and Public Works.

By Mr. PORTMAN (for himself and Mr. Lieberman):
S. 98. A bill to renew trade promotion authority, and for other purposes; to the Committee on Finance.

By Mr. HINGAMAN (for himself and Mr. Murkowski):
S. 99. A bill to promote the production of molybdenum-99 in the United States for medical isotope production, and to condition and phase out the export of highly enriched uranium for the production of medical isotopes; to the Committee on Energy and Natural Resources.

By Mr. ENSIGN:
S. 100. A bill to amend the Internal Revenue Code of 1986 to extend and modify the railroad track maintenance credit; to the Committee on Finance.

By Mr. ENSIGN:
S. 101. A bill to amend the Internal Revenue Code of 1986 to improve the operation of...
employee stock ownership plans, and for other purposes; to the Committee on Finance.

By Mr. MCCAiN for himself, Mr. CAR-
dal, Mr. FUNDRA, Mr. UDALL of Ne-0-
roado, Mr. COATS, Mr. BENNET, Mr. EN-
Mrs. McCaskill, Mr. Crapo, Mr. KLOB-
Mr. Brown of Massa-
by Mr. JOHANNS, Mr. GILLIBRAND, Mr. MORAN, Mr. WHITEHOUSE, Mr. COBURN, Mr. CARDIN, Mr. BINGHAM, Mr. Risch, Mr. LIEBERMAN, Mr. WARNER, and Mrs. GILLIBRAND).

S. 102. A bill to provide a optional fast-trac-
by Mr. VITTER:

S. 103. A bill to amend part B of the in-
nuals with Disabilities Education Act to
provide full Federal funding of such part; to the Committee on Health, Education, Labor, and Pensions.

By Mr. JOHANNS (for himself, Mr. SCHUMER, Mr. GRASSLEY, Mr. Crapo, Mr. Risch, Mr. COBURN, Mrs. GILLIBRAND, Mr. MORAN, Ms. KLOEBERG, and Mr. FRANKEN):

S. 104. A bill to require the Administrator of the Environmental Protection Agency to finalize a proposed rule to amend the spill prevention control and countermeasure rule to tailor and streamline the requirements for the dairy industry, and for other purposes; to the Committee on Environment and Public Works.

By Mr. ENSIGN:

S. 105. A bill to provide for preferential duty treatment to certain apparel articles of the Philippines; to the Committee on Finance.

By Mr. ENSIGN:

S. 106. A bill to amend the Internal Re-
venue Code of 1986 to repeal the excise tax on telephone and other communications services; to the Committee on Finance.

By Mr. ENSIGN:

S. 107. A bill to amend the Internal Re-
venue Code of 1986 to treat income earned by individuals who work in the United States for a period of time that exceeds the tax year; to the Committee on Finance.

By Mr. ENSIGN:

S. 108. A bill to amend the Harmonized Tariffs of the United States to specify the tariffs on certain footwear, and for other purposes; to the Committee on Finance.

By Mr. ENSIGN:

S. 109. A bill to amend the Atomic Energy Act of 1954 to require congressional approval of agreements for peaceful nuclear coopera-
tion with foreign countries, and for other purposes; to the Committee on Finance.

By Mr. ENSIGN:

S. 110. A bill to amend the Internal Re-
venue Code of 1986 to promote charitable do-
nations of qualified vehicles; to the Commit-
tee on Finance.

By Mr. ENSIGN:

S. 111. A bill to amend the Help America Vote Act of 2002 to require new voting systems to provide a voter-verified permanent record of all voter accessible voting machines for individuals with disabilities, and for other purposes; to the Committee on Rules and Administration.

By Mrs. LEAHY, and Ms. SNOWE:

S. 112. A bill to authorize the application of State law with respect to vehicle weight limitations on the Interstate Highway Sys-
tem in the States of Maine and Vermont; to the Committee on Environment and Public Works.

By Mrs. HUTCHISON:

S. 113. A bill to amend title II of the Social Security Act to repeal the windfall elimi-
nation provision and protect the retirement of public servants; to the Committee on Finance.

By Mrs. HUTCHISON:

S. 114. A bill to authorize the Secretary of the Interior to enter into a cooperative agreement for a park headquarters at San Antonio Missions National Historical Park, to expand the boundary of the Park, to con-
donduct a study of potential land acquisitions, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. VITTER:

S. 115. A bill to amend the Migratory Bird Treaty Act to authorize hunting under cer-
tain circumstances; to the Committee on Energy and Public Works.

By Mr. VITTER (for himself and Mr. BARRASSO):

S. 116. A bill to provide for the establish-
ment, on-going validation, and utilization of an official set of data on the historical tem-
perature record, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. VITTER:

S. 117. A bill to direct the General Ac-
countability Office to conduct a full audit of hurricane protection funding and cost esti-
mates associated with post-Katrina hurri-
 cane protection efforts; to the Committee on Homeland Security and Governmental Af-
fairs.

By Mr. VITTER:

S. 118. A bill to impose admitting privilege requirements on physicians who perform abortions; to the Committee on Health, Education, Labor, and Pensions.

By Mr. VITTER:

S. 119. A bill to provide for congressional approval of national monuments and restric-
tions on the use of national monuments; to the Committee on Energy and Natural Re-
ources.

By Mr. VITTER:

S. 120. A bill to establish a procedure to safeguard the Special Emergency Trust Funds; to the Committee on the Budget.

By Mr. VITTER:

S. 121. A bill to require all public school employees and those employed in connection with a public school to receive FBI back-
ground checks prior to being hired, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. VITTER:

S. 122. A bill to establish requirements with respect to bisphenol A; to the Commit-

By Mr. REID of Nevada (for Mrs. FEN-
stein (for herself, Mr. SCHUMER, Mr. KERRY, Mr. SANDERS, and Mr. FRANKEN):

S. 123. A bill to establish requirements with respect to bisphenol A; to the Commit-
By Mr. REID of Nevada (for Mrs. FEN-
stein (for herself, Mr. INOUYE, Mrs. BOXER, Mr. SANDERS, Mr. WHITEHOUSE, Mr. CASEY, and Mr. LAUTENBERG):

S. 127. A bill to establish the Buffalo Bayou National Heritage Area in the State of Texas, and for other purposes; to the Com-
mittee on Energy and Natural Resources.

By Mr. VITTER:

S. 128. A bill to amend title 44 of the United States Code, to provide for the sus-
ception of fines under certain circumstances for firms engaged in small business concerns; to the Committee on Homeland Security and Governmental Af-
fairs.

By Mr. VITTER:

S. 129. A bill to prohibit the use of stimulus funds for signage indicating that a project is being carried out using those funds; to the Committee on Environment and Public Works.

By Mr. LEAHY:

S. 130. A bill to establish an Office of Fo-
rensic Science and a Forensic Science Board, to strengthen and promote confidence in the criminal justice system by ensuring consist-
tency and scientific validity in forensic test-
ing, and for other purposes; to the Com-
mittee on the Judiciary.

By Mrs. McCaskill (for herself, Mr. MCCAIN, Mr. WEBB, Mr. BENNET, Mrs. McCaskill, Mr. BROWN of Ohio, Mr. CASKY, Mr. WHITEHOUSE, Mr. GILLIBRAND, Mr. AKAKA, Ms. STABENOW, Mr. ROCKEFELLER, and Mr. TINKER):

S. 131. A bill to require the spouse or immediate family members of any candidate or Federal office holder con-
ected to the committee; to the Committee on Rules and Administration.

By Mr. ENSIGN:

S. 132. A bill to require the Secretary of the Interior to enter into a cooperative agreement for a park headquarters at San Antonio Missions National Historical Park, to conduct a study of potential land acquisitions, and for other purposes; to the Committee on Energy and Natural Resources.

By Mrs. HUTCHISON:

S. 133. A bill to require the States, which serve to dissipate the political discontent with the higher unemployment rate within Mexico, to the Committee on Rules and Administration.

By Mrs. HUTCHISON:

S. 134. A bill to require the States, which serve to dissipate the political discontent with the higher unemployment rate within Mexico, to the Committee on Rules and Administration.

By Mrs. HUTCHISON:

S. 135. A bill to make the moratorium on Internet access taxes and multiple and discrimi-
tory taxes on electronic commerce permanent; to the Committee on Finance.

By Mr. REID of Nevada (for Mrs. FEN-
stein (for herself, Mr. SCHUMER, Mr. KERRY, Mr. SANDERS, and Mr. FRANKEN):

S. 136. A bill to establish requirements with respect to bisphenol A; to the Commit-
By Mr. REID of Nevada (for Mrs. FEN-
stein (for herself, Mr. INOUYE, Mrs. BOXER, Mr. SANDERS, Mr. WHITEHOUSE, Mr. CASEY, and Mr. LAUTENBERG):

S. 137. A bill to amend the Public Health Service Act to provide protections for con-
sumers against excessive, unjustified, or un-
fairly discriminatory increases in premium rates; to the Committee on Health, Edu-
cation, Labor, and Pensions.

By Mr. REID of Nevada (for Mrs. FEN-
stein):
S. 138. A bill to provide for conservation, enhanced recreation opportunities, and development of renewable energy in the California Desert Conservation Area, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. LEVIN, Mr. BINGAMAN, Mr. SITKOWSKI, Mr. CONRAD, Mr. ENZI, and Mr. KERRY):

S. 139. A bill to provide that certain tax planning strategies are not patentable, and for other purposes; to the Committee on the Judiciary.

By Mr. LEVIN (for himself and Ms. SCHUMER):

S. 140. A bill to designate as wilderness certain land and inland water within the Sleeping Bear Dunes National Lakeshore in the State of Michigan, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. VITTER:

S. 141. A bill to amend the Internal Revenue Code of 1986 to expand the Coverdell education savings accounts to allow home schoolers, maintaining future, estate, and other purposes; to the Committee on Finance.

By Mr. GRASSLEY (for himself and Mr. HARKIN):

S. 142. A bill to direct the Secretary of Agriculture to convey certain federally owned land located in Story County, Iowa, to the Committee on Agriculture, Nutrition, and Forestry.

By Mrs. HUTCHISON (for herself and Mr. CARDIN):

S. 143. A bill to amend the Internal Revenue Code of 1986 to clarify the treatment of church pension plans, and for other purposes; to the Committee on Finance.

By Mr. ENZI:

S. 144. A bill to prohibit the further extension or establishment of national monuments in Nevada except by express authorization of Congress; to the Committee on Energy and Natural Resources.

By Mr. KOHL:

S. 145. A bill to promote labor force participation of older Americans with the goals of increasing retirement security, reducing the projected shortage of experienced workers, maintaining future, estate, and other purposes, and improving the Nation's fiscal outlook; to the Committee on Finance.

By Mr. BAUCUS (for himself, Mr. TESTER, Mr. GRASSLEY, and Mr. BURR):

S. 146. A bill to amend the Internal Revenue Code of 1986 to extend the work opportunity credit to certain recently discharged veterans; to the Committee on Finance.

By Mr. KIRK (for himself and Mr. DURBIN):

S. 147. A bill to amend the Federal Water Pollution Control Act to establish a deadline for restricting sewage dumping into the Great Lakes and to fund programs and activities for improving wastewater discharges into the Great Lakes; to the Committee on Environment and Public Works.

By Mr. VITTER (for himself, Mr. GRASSLEY, Mr. ENZI, Mr. BURR, Mr. JOHANNES, and Mr. ENZI):

S. 148. A bill to repeal the provision of law that provides automatic pay adjustments for Members of Congress; to the Committee on Homeland Security and Governmental Affairs.

By Mr. REID of Nevada (for Mrs. FEINSTEIN):

S. 149. A bill to extend the expiring provisions of the USA PATRIOT Improvement and Reauthorization Act of 2005, the Intelligence Reform and Terrorism Prevention Act of 2004, and the FISA Amendments Act of 2006; to the Committee on the Judiciary.

By Mr. KOHL:

S. 150. A bill to promote labor force participation of older Americans, with the goals of increasing retirement security, reducing the projected shortage of experienced workers, maintaining future economic growth, and improving the Nation's fiscal outlook; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. HUTCHISON (for herself and Mr. CORNYN):

S. 151. A bill to eliminate certain provisions relating to Texas and the Education Jobs Fund; to the Committee on Health, Education, Labor, and Pensions.

By Mr. LUGAR:

S. 152. A bill to amend title 49, United States Code, to ensure the availability of dual fueled automobiles and light duty trucks; to the Committee on Commerce, Science, and Transportation.

By Mr. ROCKEFELLER (for himself, Mr. HARKEN, Mrs. MURRAY, and Mr. MANCHIN):

S. 153. A bill to improve compliance with mine and occupational safety and health laws, empower workers concerned with safety concerns, prevent future mine and other workplace tragedies, establish rights of families of victims of workplace accidents, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KOHL (for himself and Mr. BROWN of Ohio):

S. 154. A bill to authorize the Secretary of Education to make grants to support early college high schools and other dual enrollment programs; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KOHL:

S. 155. A bill to amend the Internal Revenue Code of 1986 to provide an enhanced credit for research and development by companies that manufacture products in the United States; to the Committee on Finance.

By Mr. KOHL (for himself, Mr. COX, Mr. KOHN, Mr. ALEXANDER, and Mr. PRYOR):

S. 156. A bill to amend the Energy Policy and Conservation Act to provide a uniform efficiency descriptor for covered water heaters; to the Committee on Energy and Natural Resources.

By Mr. KOHL:

S. 157. A bill to amend the Internal Revenue Code of 1986 to provide an investment credit for solar light pipe property, and for other purposes; to the Committee on Finance.

By Mr. ROCKEFELLER (for himself and Mrs. HUTCHISON):

S. 158. A bill to reauthorize the Surface Transportation Board, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. KOHL (for himself, Mr. WYDEN, and Mr. MURRPHY):

S. 159. A bill to improve consumer protections for purchasers of long-term care insurance, and for other purposes; to the Committee on Finance.

By Mrs. BOXER (for herself and Mrs. GILLIBRAND):

S. 160. A bill to amend the Internal Revenue Code of 1986 to increase the credit for employers establishing workplace child care facilities, to increase the child care credit to encourage greater access to quality child care services, to provide incentives for students to earn child care-related degrees and to work in child care facilities, and to increase the maximum non-provided dependent care assistance; to the Committee on Finance.

By Mrs. BOXER (for herself and Mrs. GILLIBRAND):

S. 161. A bill to establish Pinnacles National Park in the State of California as a unit of the National Park System, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. PAUL:

S. 162. A bill to cut $500,000,000,000 in spending in fiscal year 2011; read the first time.

By Mr. TOOMEY (for himself, Mr. BLUNT, Mr. LEE, Mr. DE MINT, Mr. BARRASSO, Mr. JOHANNES, Mr. ISAKSON, Mr. KIRK, Mr. ENZI, Mr. VITTER, Mr. INHOFE, Mr. JOHNSON of Wisconsin, Mr. PAUL, Mr. ENZI, Mr. COBURN, Mr. CHAMBLISS, and Mr. RUHLEO):

S. 163. A bill to require that the Government prioritize all obligations funded by the debt held by the public in the event that the debt limit is reached; read the first time.

By Mr. BROWN of Massachusetts (for himself and Mrs. SNOWE):

S. 164. A bill to repeal the imposition of withholding on certain payments made to vendors by government entities; to the Committee on Finance.

By Mr. VITTER (for himself, Mr. COBURN, Mr. ENZI, and Mr. COATS):

S. 165. A bill to amend the Public Health Service Act to prohibit certain abortion-related discrimination in governmental activities; to the Committee on Health, Education, Labor, and Pensions.

By Mr. LUGAR (for himself and Mr. LEAHY):

S. 166. A bill to amend the Internal Revenue Code of 1986 to permanently extend and expand the charitable contributions of food inventory; to the Committee on Finance.

By Mr. ENZI (for himself, Mr. McCaIN, Mr. NELSON of Nebraska, Mr. GRASSLEY, Mr. SHELY, Mr. BURR, Mr. WICKER, Mr. THUNE, Mr. ROBERTS, Mr. CORNYN, Mr. VITTER, and Mr. MCCONNELL):

S. 167. A bill to amend title 18, United States Code, to prohibit taking minors across State lines in circumstances of laws requiring the involvement of parents in abortion decisions; to the Committee on the Judiciary.

By Mr. VITTER (for himself, Mr. MCCAIN, and Mr. HATCH):

S. 168. A bill to amend the Help America Vote Act of 2002 to establish standards for the distribution of voter registration and application forms and to require organizations to register with the State prior to the distribution of such forms; to the Committee on Rules and Administration.

By Mr. VITTER (for himself, Mr. GRASSLEY, and Mr. COBURN):

S. 169. A bill to prohibit appropriated funds from being used in contravention of section 642(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996; to the Committee on the Judiciary.

By Mrs. BOXER:

S. 170. A bill to provide for the affordable refinancing of mortgages held by Fannie Mae and Freddie Mac; to the Committee on Banking, Housing, and Urban Affairs.

By Mrs. BOXER (for herself, Ms. CANTWELL, Mr. MURRAY, Mrs. FEINSTEIN, Mr. WYDEN, and Mr. MURKLEY):

S. 171. A bill to amend the Outer Continental Shelf Lands Act to permanently prohibit the conduct of offshore drilling on the Outer Continental Shelf off the coast of California, Oregon, and Washington; to the Committee on Energy and Natural Resources.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 172. A bill to amend the National Trails System Act to provide for the study of the Western States Trail; to the Committee on Energy and Natural Resources.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):
S. 173. A bill to establish the Sacramento River National Recreation Area in the State of California; to the Committee on Energy and Natural Resources.

S. 174. A bill to improve the health of Americans and reduce health care costs by reorienting the Nation's health care system toward prevention, wellness, and health promotion; to the Committee on Finance.

By Mrs. BOXER:

S. 175. A bill to provide enhanced Federal enforcement and assistance in preventing and prosecuting crimes of violence against children; to the Committee on the Judiciary.

S. 176. A bill to establish minimum standards for States that allow the carrying of concealed firearms; to the Committee on the Judiciary.

By Mrs. BOXER:

S. 177. A bill to authorize the Secretary of the Interior to acquire the Gold Hill Ranch in Coloma, California; to the Committee on Energy and Natural Resources.

By Mr. DE MINT:

S. 178. A bill to reduce Federal spending by $2.5 trillion through fiscal year 2021; to the Committee on Finance.

By Mrs. BOXER (for herself and Mrs. Feinstein):

S. 179. A bill to expand the boundaries of the Gulf of the Farallones National Marine Sanctuary and the Cordell Bank National Marine Sanctuary, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. ENSIGN:

S. 180. A bill to require a 50-hour workweek for Federal prison inmates, to reform inmate work programs, and for other purposes; to the Committee on the Judiciary.

By Mr. ENSIGN (for himself, Mr. BURR, Mr. ENZI, Mr. BARRASSO, Mr. ROBERTS, and Mr. CORNYN):

S. 181. A bill to amend title II of the Social Security Act to preserve and protect Social Security benefits of American workers and to help ensure greater congressional oversight of the Social Security system by requiring that both Houses of Congress approve a totalization agreement before the agreement, giving foreign workers Social Security benefits, can go into effect; to the Committee on Finance.

By Mr. VITTER:

S. 182. A bill to prohibit the Federal Government from awarding contracts, grants, or other Federal funds to, or engaging in activities that promote the Association of Community Organizations for Reform Now and its shell organizations for purposes of obtaining Federal funds to, or engaging in activities that promote the Association of Community Organizations for Reform Now and its shell organizations; to the Committee on Homeland Security and Governmental Affairs.

By Mr. ROCKEFELLER (for himself, Mr. SCHUMACHER, and Mr. WHITEHOUSE):

S. 183. A bill to clarify the applicability of certain maritime laws with respect to the blowout and explosion of the mobile offshore drilling unit Deepwater Horizon; to the Committee on Commerce, Science, and Transportation.

By Mr. ENSIGN:

S. 184. A bill to prohibit ballot box stuffing of fiscally irresponsible State and local governments; to the Committee on Banking, Housing, and Urban Affairs.

By Mrs. BOXER (for herself, Mr. BURR, Mr. CARDIN, and Mr. Brown of Massachusetts):

S. 185. A bill to provide United States assistance for the purpose of eradicating severe forms of trafficking in children in eligible countries through the implementation of Child Victims Compacts, and for other purposes; to the Committee on Foreign Relations.

By Mrs. BOXER (for herself, Mr. DURBIN, Ms. GILLIBRAND, and Mr. Brown of Ohio):

S. 186. A bill to provide for the safe and responsible withdrawal of United States combat forces from Afghanistan; to the Committee on Foreign Relations.

By Mr. HARKIN (for himself, Mr. JOHNSON of Iowa, Ms. KLOBuchar, and Mr. FRANKEN):

S. 187. A bill to provide for the expansion of the biofuels market; to the Committee on Energy and Natural Resources.

By Mr. VITTER:

S. J. Res. 1. A joint resolution proposing an amendment to the Constitution of the United States relative to limiting the number of terms that a Member of Congress may serve; to the Committee on the Judiciary.

By Mr. VITTER (for himself and Mr. PAUL):

S. J. Res. 2. A joint resolution proposing an amendment to the Constitution of the United States relating to United States citizenship; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENCT AND SENATE RESOLUTIONS

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

By Mr. McCAIN (for himself, Mr. Kyl, Mr. Reid of Nevada, Mr. McConnell, Mr. Akaka, Mr. Alexander, Ms. Ayotte, Mr. Barrasso, Mr. Baucus, Mr. Begich, Mr. Bennet, Mr. Bingaman, Mr. Blumenthal, Mr. Blunt, Mr. Boozman, Mrs. Boxer, Mr. Brown of Massachusetts, Ms. Brown of Ohio, Mr. Burr, Ms. Cantwell, Mr. Cardin, Mr. Carper, Mr. Casey, Mr. Chambliss, Mr. Coats, Mr. Coburn, Mr. Collins, Mr. Conrad, Mr. Coons, Mr. Corker, Mr. Cornyn, Mr. Crapo, Mr. DeMint, Mr. Durbin, Mr. Ensign, Mr. Enzi, Mrs. Feinstein, Mr. Frank, Mrs. Gillibrand, Mr. Graham, Mr. Grassley, Mrs. Hagans, Mr. Harkin, Mr. Hatch, Mr. Hoven, Mrs. Hutchison, Mr. Inouye, Ms. Inouye, Mr. Isakson, Mr. Johnson of Wisconsin, Mr. Johnson of South Dakota, Mr. King, Mr. Kirk, Ms. Klobuchar, Mr. Landrieu, Mr. Lautenberg, Mr. Leahy, Mr. Lee, Mr. Levin, Mr. Lieberman, Mr. Lugar, Mr. Manchin, Mrs. McCaskill, Mr. Menendez, Mr. Merkley, Ms. Mikulski, Mr. Moran, Ms. Murkowski, Mrs. Murray, Mr. Nelson of Nebraska, Mr. Nelson of Florida, Mr. Portman, Mr. Pryor, Mr. Reed of Rhode Island, Mr. Risch, Mr. Roberts, Mr. Rockefeller, Mr. Rubio, Mr. Sanders, Mr. Schumer, Mr. Sessions, Mrs. Shaheen, Mr. Shelby, Ms. Snowe, Ms. Stabenow, Mr. Tester, Mr. Thune, Mr. Toomey, Mr. Udall of Colorado, Mr. Udall of New Mexico, Mr. Vitter, Mr. Warner, Mr. Webb, Mr. Whitehouse, Mr. Wicker, and Mr. Wyden):


By Mr. INOUYE (for himself and Mr. Cobhann):

S. Res. 15. A resolution designating the week of August 1 through August 7, 2011, as 'Sensational Summer Reading Week'; and supporting the goals and ideals of raising awareness of the need for accessible and cost-effective health care options to complement the traditional health care model; to the Committee on the Judiciary.

By Mr. ENSIGN (for himself, Mr. Burr, Mr. Enzi, Mr. Vitter, Mr. Crapo, Mr. Isakson, Mr. Johanns, Mr. Coburn, and Mr. Thune):

S. Res. 16. A resolution to require that all legislative matter be available and fully scored by CBO 72 hours before consideration by any subcommittee or committee of the Senate or on the floor of the Senate; to the Committee on Rules and Administration.

By Mr. INOUYE:

S. Res. 17. A resolution designating the month of November 2011 as 'Military Family Month'; to the Committee on the Judiciary.

By Mr. VITTER:

S. Res. 19. A resolution expressing support for prayer at school board meetings; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ENSIGN:

S. Res. 19. A resolution to require that a descriptive summary of each provision of any legislative matter be available 72 hours before consideration by any subcommittee or committee of the Senate or on the floor of the Senate; to the Committee on Rules and Administration.

By Mr. JOHANNIS (for himself, Mr. Grassley, Mrs. Hutchinson, Mr. Roberts, Mr. Boozman, Mr. Cornyn, Mr. Portman, Mr. Johnson of South Dakota, Mr. Lugar, Mr. Wicker, and Mr. Chambliss):

S. Res. 20. A resolution expressing the sense of the Senate that the United States should immediately approve the United States-Korea Free Trade Agreement, the United States-Colombia Trade Promotion Agreement, and the United States-Panama Trade Promotion Agreement; to the Committee on Finance.

By Mr. MERKLEY (for himself and Mr. Udall of New Mexico):

S. Res. 21. A resolution to amend the Standing Rules of the Senate to provide procedures for extended debate; submitted and read.

By Mr. MENENDEZ (for himself, Mr. Durbin, Mr. Whitehouse, Mr. Wicker, Mr. Carper, Mr. Lautenberg, Mr. Levin, Mr. Casey, Mr. Johnson of South Dakota, Ms. Boxer, and Mr. Kyl):

S. Res. 22. A resolution condemning the New Year's Day attack on the Coptic Christian community in Alexandria, Egypt, and urging the Government of Egypt to fully investigate and prosecute the perpetrators of this heinous act; to the Committee on Foreign Relations.

By Mr. INHOFE (for himself and Mr. McCain):

S. Res. 23. A resolution to prohibit unauthorized earmarks; to the Committee on Rules and Administration.

By Mr. MERKLEY (for himself and Mr. Udall of New Mexico):

S. Res. 24. A resolution to propose a standing order to govern extended debate; submitted and read.

By Mrs. BOXER:

S. Res. 25. A resolution expressing the sense of the Senate that comprehensive tax reform legislation should include incentives for companies to repatriate foreign earnings for the purpose of creating new jobs; to the Committee on Finance.

By Mr. HARKIN (for himself and Mr. Grassley):

S. Con. Res. 3. A concurrent resolution honoring the service and sacrifice of Staff Sergeant Salvatore Giunta, a native of Hialeah, Florida, and the first living recipient of the Medal of Honor since the Vietnam War; considered and agreed to.
S. 1. A bill to strengthen the economic competitiveness of the United States; to the Committee on Finance.

Mr. REID. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD. There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

SEC. 1. SHORT TITLE. This Act may be cited as the "American Competitiveness Act".

SEC. 2. SENSE OF THE SENATE. It is the sense of the Senate that Congress should—

(1) eliminate tax loopholes that encourage companies to ship American jobs overseas;

(2) expand markets for United States exports by enforcing trade laws, stopping unfair currency manipulation, and opening up new markets for products made in the United States;

(3) promote the development of new, innovative products bearing the inscription "Made in America" by creating tax incentives to support United States industries and funding research and education programs to support and train workers in those newly developed areas;

(4) modernize and improve the highways, bridges, and transit systems of the United States to reduce congestion and the negative impacts of congestion on productivity and the communities of the United States;

(5) modernize and upgrade the rail, levees, dams, and ports of the United States to get commerce flowing faster and faster;

(6) place computers in classrooms to ensure that all children in the United States have the tools they need to be the innovators of tomorrow;

(7) ensure that small businesses and households in the United States have access to high-speed broadband;

(8) invest in critical new infrastructure, such as a national energy grid, to reduce energy waste and promote the use of renewable energy sources; and

(9) streamline regulatory policies that unnecessarily put the United States at a competitive disadvantage.

By Mr. REID (for himself, Mr. DURBIN, Mrs. FEINSTEIN, Mr. BROWN of Ohio, Mrs. GILLIBRAND, Mr. COONS, Mrs. BOXER, Mr. LAUTENBERG, Mr. BEGICH, Mrs. SHAHEEN, and Mr. AKAKA):

S. 2. A bill to help middle class families succeed; to the Committee on Finance.

Mr. REID. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD. There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

SEC. 1. SHORT TITLE. This Act may be cited as the "Middle Class Success Act".

SEC. 2. SENSE OF THE SENATE. It is the sense of the Senate that Congress should—

(1) support middle class tax relief;

(2) help families afford the cost of college and improve opportunities for a secure retirement;

(3) invest in infrastructure and other measures to create good, well-paying jobs;

(4) help ensure that families have access to affordable child and elder care;

(5) preserve and improve affordable health care;

(6) ensure that all workers earn enough to meet basic living standards and do not live in poverty;

(7) ensure that tax dollars do not support companies that break the law or misinterpret their workers;

(8) keep Social Security’s promise and block proposals to privatize the program;

(9) ensure that families have access to a healthy and clean environment, including access to safe drinking water;

(10) ensure that workers can secure representation without employer obstruction;

(11) ensure that our streets and communities are safe; and

(12) address the serious housing problems facing many American families.

By Mr. REID (for himself, Mr. DURBIN, Mrs. FEINSTEIN, Mr. BROWN of Ohio, Mr. KERRY, Mr. BENNET, Mrs. GILLIBRAND, Mr. COONS, Mrs. BOXER, Mr. LAUTENBERG, Mrs. SHAHEEN, and Mr. AKAKA):

S. 3. A bill to promote fiscal responsibility and control spending; to the Committee on Finance.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD. There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

SEC. 1. SHORT TITLE. This Act may be cited as the "Fiscal Responsibility and Spending Control Act".

SEC. 2. SENSE OF THE SENATE. It is the sense of the Senate that Congress should—

(1) address the growing public concern about our rising national debt long-term fiscal challenges through a bipartisan agreement that—

(A) significantly corrects our Nation’s long-term fiscal imbalances and closes the gap between projected revenues and expenditures;

(B) ensures the economic security of the United States and;

(C) enhances future prosperity and growth for all Americans;

(2) reduce the Federal deficit and stabilize the national debt without damaging the economic recovery;

(3) consider deficit reduction proposals recently developed by leading budget experts, including various members of the National Commission on Fiscal Responsibility and Reform, and establish a plan that can attract bipartisan support;

(4) ensure that any plan to address our Nation’s long-term fiscal problems is balanced and provides fundamental reform of the Federal tax code along with prudent controls on spending;

(5) lower tax rates and raise Federal revenues by eliminating tax expenditures that only serve special interests, as well as take aggressive measures to close the tax gap and stop cheating;

(6) ensure that the Federal tax code fairly distributes the tax burden and helps American businesses compete in the global marketplace;

(7) extend the savvyness of Social Security for its own sake and ensure that no savings are used to meet deficit reduction goals in the remainder of the budget;

(8) achieve savings through the elimination or consolidation of duplicative Federal programs and activities while also modernizing Federal procurement practices in order to reduce waste and leverage better value out of every dollar spent by the Federal Government; and

(9) reject efforts to exempt tax breaks for millionaires and special interests from strong pay-as-you-go budgetary rules.

By Mr. REID (for himself, Mr. BINGAMAN, Mr. BROWN of Ohio, Mr. DURBIN, Mr. KERRY, Mr. BENNET, Mrs. GILLIBRAND, Mr. COONS, Mrs. BOXER, Mr. LAUTENBERG, Mrs. SHAHEEN, and Mr. AKAKA):

S. 4. A bill to make America the world’s leader in clean energy; to the Committee on Finance.

Mr. REID. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD. There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

SEC. 1. SHORT TITLE. This Act may be cited as the "Make America the World’s Leader in Clean Energy Act".

SEC. 2. SENSE OF THE SENATE. It is the sense of the Senate that Congress should—

(1) promote investment in clean energy jobs and industries;

(2) free the United States from dependence on oil, especially foreign oil;

(3) reduce costs and pollution by promoting energy efficiency;

(4) promote clean energy by retrofitting the infrastructure and workforce of the United States;

(5) ensure the Federal Government is a leader in reducing pollution, promoting the use of clean energy sources, and implementing energy efficient practices;

(6) reduce harmful energy-related air, land, and water pollution; and

(7) eliminate wasteful tax subsidies that promote pollution.

By Mr. REID (for himself, Mr. DURBIN, Mr. WYDEN, Mr. BROWN of Ohio, Mr. BENNET, Mrs. GILLIBRAND, Mrs. B OXER, Mr. L AUTENBERG, Mrs. F EINSTEIN, Mr. D URBIN, Mr. W YDEN, Mr. B ROWN of Ohio, Mr. KERRY, Mrs. S HAHEEN, and Mr. AKAKA):
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION 1. SHORT TITLE.
This Act may be cited as the “Reform America’s Schools to Educate the Leaders of America’s Broken Immigration System Act”.

SEC. 2. SENSE OF THE SENATE.
It is the sense of the Senate that Congress should—

(1) ensure that all students have equitable access to a high-quality, well-rounded education that prepares them to succeed in college and a career;

(2) end the Wild Left Behind’s accountability system while continuing to focus on the success of all students;

(3) provide States and districts the resources to turn around our lowest performing schools;

(4) collaborate with teachers to put in place systems to measure teacher quality and support them to help teachers improve student achievement; and

(5) promote programs that encourage parent engagement, community involvement, and youth development.

By Mr. REID (for himself, Mr. DURBIN, Mr. BROWN of Ohio, Mrs. GILLIBRAND, Mrs. BOXER, and Mr. LAUTENBERG):

S. 6. A bill to reform America’s broken immigration system; to the Committee on the Judiciary.

Mr. REID. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD.

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

SECTION 1. SHORT TITLE.
This Act may be cited as the “Comprehensive and Fair Tax Reform Act”.

SEC. 2. SENSE OF THE SENATE.
It is the sense of the Senate that Congress should—

(1) simplify and shrink the tax code to reduce burdens on taxpayers and businesses;

(2) eliminate wasteful tax breaks for special interests and remove corporate tax loopholes;

(3) get rid of extra tax breaks for millionaires and billionaires; and

(4) crack down on cheaters and close the tax gap.

By Mr. REID (for himself, Mr. DURBIN, Mr. BROWN of Ohio, Mr. BENNET, Mrs. GILLIBRAND, Mrs. BOXER, and Mr. LAUTENBERG):

S. 7. A bill to reform the Federal tax code; to the Committee on Finance.

Mr. REID. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD.

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

SECTION 1. SHORT TITLE.
This Act may be cited as the “Political Reform and Gridlock Elimination Act”.

SEC. 2. SENSE OF THE SENATE.
It is the sense of the Senate that Congress should—

(1) pass the DISCLOSE Act to prevent a corporate takeover of our elections and ensure that our democracy is open, transparent, and controlled by the people; and

(2) reform Senate rules and procedures to reduce excessive obstruction and delay, while protecting the legitimate rights of individual Senators and the minority.

By Mr. REID (for himself, Mr. DURBIN, Mr. BROWN of Ohio, Mr. KERRY, Mrs. GILLIBRAND, Mrs. BOXER, Mr. LAUTENBERG, Mr. BEGICH, and Mr. AKAKA):

S. 9. A bill to reform America’s political system and eliminate gridlock that blocks progress; to the Committee on Rules and Administration.

Mr. REID. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD.

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

SECTION 1. SHORT TITLE.
This Act may be cited as the “Family Economic Success Act”.

SEC. 2. SENSE OF THE SENATE.
It is the sense of the Senate that Congress should—

(1) guarantee pay equity for women;

(2) reward companies that promote flexible work environments for working parents with children, and workers who are caregivers;
There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 11

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Permanent Marriage Penalty Relief Act of 2011”.

SEC. 2. REPEAL OF SUNSET ON MARRIAGE PENALTY RELIEF.

Title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 (relating to sunset of provisions of such Act) shall not apply to sections 301, 302, and 332(a) of such Act (relating to marriage penalty relief).

By Mr. REID (for himself, Mrs. FEINSTEIN, Mr. KERRY, Mr. LEAHY, Mr. LIEBERMAN, Mr. ROCKEFELLER, and Mr. BINGAMAN):

S. 21. A bill to secure the United States against cyber attack, to enhance American competitiveness and create jobs in the information technology industry, and to protect the identities and sensitive information of American citizens and businesses; to the Committee on Homeland Security and Governmental Affairs.

Mr. REID (for unanimous consent). I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Cyber Security and American Cyber Competitiveness Act of 2011".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Malicious or criminal actors exploiting vulnerabilities in information and communications networks and gaps in cybersecurity pose one of the most serious and ubiquitous threats to both the national security and economy of the United States.

(2) With information technology now the backbone of the United States economy, a critical element of United States national security infrastructure and defense systems, the primary foundation of global communications and critical commerce, and a key enabler of most critical infrastructure, nearly every single American citizen is touched by cyberspace and is threatened by cyber attacks.

(3) With information technology now the backbone of the United States economy, a critical element of United States national security infrastructure and defense systems, the primary foundation of global communications and critical commerce, and a key enabler of most critical infrastructure, nearly every single American citizen is touched by cyberspace and is threatened by cyber attacks.

(4) Malicious or criminal actors exploiting vulnerabilities in information and communications networks and gaps in cybersecurity pose one of the most serious and ubiquitous threats to both the national security and economy of the United States.

(5) An effective solution to the tremendous challenges of cyber security demands cooperation and integration of effort across jurisdictions of multiple Federal, State, local, and tribal government agencies, between the government and the private sector and with international allies, as well as increased public awareness and preparedness among the American people.

TITLE IX. CYBERSECURITY ECONOMIC GROWTH AND COMPETITIVENESS

SEC. 3. SENSE OF CONGRESS.

It is the sense of Congress that Congress should enact, and the President should sign, bipartisan legislation to secure the United States against cyber attack to enhance American competitiveness and create jobs in the information technology industry, and to protect the identities and sensitive information of American citizens and businesses by—

(1) enhancing the security and resiliency of United States Government communications and information networks against cyber attacks by nation-states, terrorists, and cyber criminals;

(2) incentivizing the private sector to quantify, assess, and mitigate cyber risks to their communications and information networks;

(3) promoting investments in the information technology sector that create and maintain good, well-paying jobs in the United States and help to enhance American economic competitiveness and growth;

(4) improving the capability of the United States Government to assess cyber risks and prevent, detect, and robustly respond to cyber attacks against the government and the military;

(5) improving the capability of the United States Government and the private sector to assess cyber and information risks and prevent, detect, and robustly respond to cyber attacks against United States critical infrastructure;

(6) preventing and mitigating identity theft and guarding against abuses or breaches of personally identifiable information;

(7) enhancing United States diplomatic capacity and international cooperation to respond to emerging cyber threats, including promoting security and freedom of access for communications and information networks and the world and battling global cyber crime through focused diplomacy;

(8) protecting and increasing the resiliency of United States' critical infrastructure and assets, including the United States military, commercial assets, the financial sector, and telecommunications networks against cyber attacks and other threats and vulnerabilities;

(9) expanding tools and resources for investigating and prosecuting cyber crimes in a manner that respects privacy rights and civil liberties and promotes American innovation; and

(10) maintaining robust protections of the privacy of American citizens and their online activities and communications.

By Mr. LEAHY (for himself, Mr. HATCH, Mr. GRASSLEY, Ms. KLOBUCHAR, Mr. SESSIONS, Mr. KYL, Mr. LIEBERMAN, and Mr. COX):

S. 23. A bill to amend title 35, United States Code, to provide for patent reform; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, the United States of America has long been the world leader in invention and innovation. That leadership has propelled our economic growth, but we cannot
remain complacent while expecting to stay on top. A Newsweek study last year found that only 41 percent of Americans believe that the United States is staying ahead or improving innovation. A Thompson Reuters analysis has already predicted that China will overtake the United States in patent filings this year. China, in fact, has a specific plan not just to overtake the United States this year in patent applications, but to more than quadruple its patent filings over the next 5 years.

That is astonishing, until considering that China has been modernizing its patent system aggressively moving to constrain innovation while the United States has failed to keep pace. It has now been nearly 60 years since Congress last acted to reform American patent law. We can no longer wait. Today, I am reintroducing bipartisan patent reform legislation that is the culmination of three Congresses worth of bipartisanship, bicameral work, including eight hearings in the Senate alone. The America Invents Act of 2005 was structured on legislation first introduced in the House by Chairman SMITH and Mr. BERNER in 2005. The legislation will accomplish three important goals, which have been at the center of the patent reform debate: improve the application process by transitioning to a first-inventor-to-file system; improve the quality of patents issued by the USPTO by introducing several quality-enhancing tools; and provide more certainty in litigation.

In many areas that were highly contentious when the patent reform debate began, the courts have stepped in to act. Their decisions reflect the concerns heard in Congress that questionably patents are too easily obtained and too difficult to challenge. The courts have moved the law in a generally positive direction, more closely aligning the law of patent law with that of the status of the statute. Most recently, the Federal Circuit aggressively moved to constrain runaway damage awards, which has plagued the patent system by basing award amounts on unreliable numbers, un tethered to the reality of licensing decisions. As the court continues to move in the right direction, it is more apparent than ever that the gatekeeper compromise on damages we have worked to reach with Senator FEINSTEIN and others is what is needed to ensure an award of a reasonable royalty is not artificially inflated or based on irrelevant factors.

The courts have addressed issues where they can, but in some areas, only Congress can take the necessary steps. The Patent Reform Act will both speed the application process and, at the same time, improve patent quality. It will provide the USPTO with the resources it needs to work through its application backlog, while also providing for greater input from third parties to improve the quality of patents issued to remain in effect.

High quality patents are the key to our economic growth. They benefit both patent owners and users, who can be more confident in the validity of issued patents. Patents of low quality and dubious validity, by contrast, enable patent trolls and constitute a drag on innovation. Too many dubious patents also unjustly cast doubt on truly high quality patents.

The Patent Reform Act provides the tools the USPTO needs to separate the inventive wheat from the chaff. It will allow our inventors and innovators to focus their energy on the Department of Commerce recently issued a report indicating that these reforms will create jobs without adding to the deficit. The Obama administration supports these efforts, as do industries and stakeholders from all sectors of the patent community. Congressional action can no longer be delayed.

Innovation and economic development are not uniquely Democrat or Republican objectives, as we worked together to find the proper balance for America—for our economy, for our inventors, for our consumers.

Thomas Freidman wrote not too long after Mr. BERNER in the New York Times about the country which ‘‘endows its people with more tools and basic research to invent new goods and services [] is the one that will not just survive but thrive down the road. . . . We might be able to stimulate our way back to stability, but we can only invent our way back to prosperity.’’

Reforming our patent system will stimulate the American economy through structural changes, rather than taxpayer dollars. I look forward to working with all Senators and our counterparts in the House, who have also made this a bipartisan priority, to ensure that this is the year we make our patent system reward inventors and provide certainty to users.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD. There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

SEC. 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ‘‘Patent Reform Act of 2011’’.

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

SEC. 2. First inventor to file.

The term ‘‘inventor’’ means the individual or, if a joint invention, the individuals collectively who invented or discovered the subject matter of the invention.

The terms ‘‘joint inventor’’ and ‘‘co-inventor’’ mean any of the individuals who invented or discovered the subject matter of a joint invention.

The term ‘‘effective filing date of a claimed invention’’ is defined as the filing date of the application for a patent or application for patent means:

(A) if subparagraph (B) does not apply, the actual filing date of the patent or the application for the patent containing a claim to the invention or

(B) the filing date of the earliest application for which the patent or application is entitled, as to such invention, to a right of priority under section 120, 121, or 365(c).

The effective filing date for a claimed invention in an application for reissue or reexamination means the date on which the reissue claim is deemed to have been contained in the patent for which reissue was sought. The term ‘‘claimed invention’’ means the patented matter described by a claim in a patent or an application for a patent.

(b) CONDITIONS FOR PATENTABILITY.—

(1) IN GENERAL.—Section 102 of title 35, United States Code, is amended as reads as follows:

SEC. 102. Conditions for patentability; novelty.

(a) NOVELTY; PRIOR ART.—A person shall be entitled to a patent unless—

(1) the claimed invention was patented, described in a printed publication, or in public use, on sale, or otherwise available to the public before the effective filing date of the claimed invention; or

(2) the claimed invention was described in a patent issued under section 151, or in an application for patent published or deemed published under section 122(b), in which the patent or application, as the case may be, names another inventor and was effectively filed before the effective filing date of the claimed invention.

(b) EXCEPTIONS.—

(1) DISCLOSURES MADE 1 YEAR OR LESS BEFORE THE EFFECTIVE FILED DATE OF THE CLAIMED INVENTION.—A disclosure made 1 year or less before the effective filing date of a claimed invention shall not be prior art to the claimed invention under subsection (a)(1) if—

‘‘(A) the disclosure was made by the inventor or joint inventor or by another who obtained the subject matter disclosed or conceived it directly or indirectly from the inventor or joint inventor;

or

(B) the subject matter disclosed had, before such disclosure, been publicly disclosed by the inventor or joint inventor.

(2) DISCLOSURES APPEARING IN APPLICATIONS AND PATENTS.—A disclosure shall not be prior art to a claimed invention under subsection (a)(2) if—

(A) the subject matter disclosed was obtained directly or indirectly from the inventor or joint inventor;

or

(B) the subject matter disclosed had, before such subject matter was effectively filed
under subsection (a)(2), been publicly disclosed by the inventor or a joint inventor or another who obtained the subject matter disclosed directly or indirectly from the inventor or joint inventor.

(2) The subject matter disclosed and the claimed invention, not later than the effective filing date of the claimed invention, were made public by the inventor or joint inventor or another who obtained the subject matter disclosed directly or indirectly from the inventor or joint inventor, or any public display (including publication).

(3) The application for patent for the claimed invention and the application for patent for which the benefit of section 120 is claimed contain a statement disclosing the names of the parties to the joint research agreement that was in effect on or before the effective filing date of the claimed invention.

(4) The claimed invention was made as a result of activities undertaken within the scope of a joint research agreement that was in effect on or before the effective filing date of the claimed invention.

(5) The application for patent for the claimed invention and the application for which the benefit of section 120 is claimed contain a statement disclosing the names of the parties to the joint research agreement.

(d) PROVISIONS APPLICABLE TO GRANTS.—Section 154(a) of title 35, United States Code, is amended to read as follows:

"154(a) Provision of information.—(1) The Director shall provide information to the extent appropriate to the conduct of derivation proceedings filed under this section. The Director shall prescribe regulations for the conduct of derivation proceedings."

(1) TRANSFER OR ASSIGNMENT.—Section 118(b) of title 35, United States Code, is amended by striking "without regard to whether the claim to the invention is a statutory invention" and inserting "without regard to whether the claim to the invention is the invention of a statutory invention registration filed on or after that date."
shall give notice of any arbitration award to the Director, and such award shall, as between the parties to the arbitration, be dispositive of the issues to which it relates. The arbitration award shall be enforceable in the courts of the United States and subject to review by the Courts of Appeals of the United States until such notice is given. Nothing in this subsection shall preclude the Director from determining the patentability of the claimed invention in the proceeding.

(3) E F F E C T I V E DATE.—The amendments made by this subsection shall apply to all cases, without exception, pending on or after the date of the enactment of this Act.

(b) Ap p eal to the Patent Trial and Appeal Board.—

(1) IN GENERAL.—Section 134, United States Code, is amended to read as follows:

§ 134. Appeal to the Patent Trial and Appeal Board. (a) NAMING THE INVENTOR; INVENTOR’S OATH OR DECLARATION. (1) I N GENERAL.—Section 115 of title 35, United States Code, is amended—

(1) by striking “‘Board of Patent Appeals and Interferences’” each place it appears and inserting “‘Patent Trial and Appeal Board’”;

(2) by striking sections 146 and 154 of title 35, United States Code, are each amended—

(i) by striking “an interference” each place it appears and inserting “a derivation proceeding”; and

(ii) by striking “interference” each additional place it appears and inserting “derivation proceeding”.

(2) DERIVATION PROCEEDINGS.—(a) Section 146, United States Code, is amended by striking “interference” and inserting “derivation proceeding”.

(b) Paragraphs (a) and (b) of section 154(b)(1)(C) of title 35, United States Code, are each amended—

(i) by striking “‘Board of Patent Appeals and Interferences’” each place it appears and inserting “‘Patent Trial and Appeal Board’”;

(ii) by striking “‘derivation proceeding’” each place it appears and inserting “‘ derivation proceeding’”.

(c) The amendment made by section 134 of title 35, United States Code, is read as follows:

§ 134. Appeal to the Patent Trial and Appeal Board.

(4) The section heading for section 146 of title 35, United States Code, is amended to read as follows:

§ 146. Civil action in case of derivation proceeding.

(5) Section 154(b)(1)(C) of title 35, United States Code, is amended by striking “‘Board of Patent Appeals and Interferences’” and inserting “‘Patent Trial and Appeal Board’”.

(6) The item relating to section 6 in the table of sections for chapter 1 of title 35, United States Code, is amended to read as follows:

6. Patent Trial and Appeal Board.

(k) FA L S E MARKING.—(1) In general.—Section 292 of title 35, United States Code, is amended—

(A) by striking subsection (a), by adding at the end the following:

‘‘(b) Any person who has suffered a competitive injury as a result of a violation of this section may file a civil action in a district court of the United States for recovery of damages adequate to compensate for the injury.’’; and

(B) by inserting subsection (b) and inserting the following:

‘‘(b) Any person who has suffered a competitive injury as a result of a violation of this section may file a civil action in a district court of the United States for recovery of damages adequate to compensate for the injury.’’

(2) E F F E C T I V E DATE.—The amendments made by this subsection shall apply to all cases, without exception, pending on or after the date of the enactment of this Act.

(4) The section heading for section 132 of title 35, United States Code, is amended by inserting between the third and fourth sentences the following: “A proceeding under this section shall be commenced not later than the earlier of either 10 years after the date on which the closest prior art for which the proceeding occurred, or 1 year after the date on which the misconduct forming the basis for the proceeding is made known to an officer or employee of the Office as prescribed in the regulations established under section 2(b)(2)(D).”

(5) Report to Congress.—The Director shall provide on a biennial basis to the Judiciary Committees of the Senate and House of Representatives a report providing a short description of the processes by which one or more of its officers or employees are made aware of any misconduct occurring before the Office for which a proceeding is made known to the Office, including whether the misconduct forming the basis for the proceeding occurred, or 1 year after the date on which the misconduct forming the basis for the proceeding is made known to an officer or employee of the Office as prescribed in the regulations established under section 2(b)(2)(D) of title 35, United States Code, the reasons for the evidence of misconduct before the Office but for which the Office was barred from commencing a proceeding under section 32 of title 35, United States Code.

(f) Small Business.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall, in consultation with the Small Business Administration, submit to the Committee on the Judiciary of the Senate a report providing a short description of the processes by which one or more of its officers or employees are made aware of any misconduct occurring before the Office for which a proceeding is made known to the Office, including whether the misconduct forming the basis for the proceeding occurred, or 1 year after the date on which the misconduct forming the basis for the proceeding is made known to an officer or employee of the Office as prescribed in the regulations established under section 2(b)(2)(D) of title 35, United States Code, the reasons for the evidence of misconduct before the Office but for which the Office was barred from commencing a proceeding under section 32 of title 35, United States Code.

(m) Small Business Study.—(1) Definitions.—In this subsection—

(A) the term ‘‘general counsel’’ means the Chief Counsel for Advocacy of the Small Business Administration;

(B) the term ‘‘general counsel’’ means the General Counsel of the United States Patent and Trademark Office; and

(C) the term ‘‘small business concern’’ means the Small Business Act (15 U.S.C. 632).

(2) Study.—(A) In General.—The Chief Counsel, in consultation with the General Counsel, shall conduct a study of the effects of eliminating the use of dates of invention in determining whether an applicant is entitled to a patent under title 35, United States Code.

(B) Areas of Study.—The study conducted under paragraph (A) shall include examination of the effects of eliminating the use of dates of invention, including examining—

(i) the ability of small business concerns to obtain patents and their costs of obtaining patents;

(ii) whether the change would create, mitigate, or exacerbate any disadvantage for applicants for patents that are small business concerns relative to applicants for patents that are not small business concerns, and whether the change would create any advantages for applicants for patents that are small business concerns relative to applicants for patents that are not small business concerns;

(iii) the cost savings and other potential benefits to small business concerns of the change; and

(iv) the feasibility and costs and benefits to small business concerns of alternative means of determining whether an applicant is entitled to a patent under title 35, United States Code.

(3) Effective Date.—The amendment made by paragraph (2) shall apply in all cases in which the time period for instituting a proceeding under section 32 of title 35, United States Code, had not lapsed prior to the date of the enactment of this Act.

(n) Report on Prior User Rights.—(1) In General.—Except as otherwise provided in this section, if the Director, in consultation with the Small Business Administration, determines as part of the study under paragraph (2) that—

(i) the feasibility and costs and benefits to small business concerns relative to applicants for patents that are not small business concerns, and whether the change would create any advantages for applicants for patents that are small business concerns relative to applicants for patents that are not small business concerns;

(ii) the cost savings and other potential benefits to small business concerns of the change; and

(iii) the feasibility and costs and benefits to small business concerns of alternative means of determining whether an applicant is entitled to a patent under title 35, United States Code.

(2) Effective Date.—The amendment made by paragraph (1) shall apply to any application for patent, and shall apply to any patent that issues thereon at any time.

(3) Report.—Not later than 1 year after the date of the enactment of this Act, the Chief Counsel shall submit to the Committee on the Judiciary of the Senate, the Senate Committee on Small Business and Entrepreneurship, and the Committee on the Judiciary of the House of Representatives a report regarding the results of the study under paragraph (2).

(o) Report on Prior User Rights.—(1) In General.—Not later than 1 year after the date of the enactment of this Act, the Director shall report, to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives, the findings and recommendations of the Director on the operation of the prior user rights in selected countries in the internationally.

The report shall include the following:

(A) A comparison between patent laws of the United States and other industrialized countries, including members of the European Union and Japan, Canada, and Australia.

(B) An analysis of the effect of prior user rights on innovation rates in the selected countries.

(C) An analysis of the correlation, if any, between prior user rights and the ability to attract venture capital to start new companies.

(D) An analysis of the effect of prior user rights, if any, on small businesses, universities, and individual inventors.

(E) An analysis of legal and constitutional issues, if any, that arise from placing trade secret law in patent law.

(F) An analysis of whether the change to a first-to-file patent system creates a particular need for prior user rights.

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(G) An analysis of whether the change to a first-to-file patent system creates a particular need for prior user rights.

(H) An analysis of whether the change to a first-to-file patent system creates a particular need for prior user rights.

(I) An analysis of whether the change to a first-to-file patent system creates a particular need for prior user rights.

(J) An analysis of whether the change to a first-to-file patent system creates a particular need for prior user rights.

(K) An analysis of whether the change to a first-to-file patent system creates a particular need for prior user rights.

(L) An analysis of whether the change to a first-to-file patent system creates a particular need for prior user rights.

(M) An analysis of whether the change to a first-to-file patent system creates a particular need for prior user rights.

(N) An analysis of whether the change to a first-to-file patent system creates a particular need for prior user rights.

(O) An analysis of whether the change to a first-to-file patent system creates a particular need for prior user rights.

(P) An analysis of whether the change to a first-to-file patent system creates a particular need for prior user rights.

(Q) An analysis of whether the change to a first-to-file patent system creates a particular need for prior user rights.

(R) An analysis of whether the change to a first-to-file patent system creates a particular need for prior user rights.

(S) An analysis of whether the change to a first-to-file patent system creates a particular need for prior user rights.

(T) An analysis of whether the change to a first-to-file patent system creates a particular need for prior user rights.

(U) An analysis of whether the change to a first-to-file patent system creates a particular need for prior user rights.

(V) An analysis of whether the change to a first-to-file patent system creates a particular need for prior user rights.

(W) An analysis of whether the change to a first-to-file patent system creates a particular need for prior user rights.

(X) An analysis of whether the change to a first-to-file patent system creates a particular need for prior user rights.

(Y) An analysis of whether the change to a first-to-file patent system creates a particular need for prior user rights.

(Z) An analysis of whether the change to a first-to-file patent system creates a particular need for prior user rights.
“(b) REQUIRED STATEMENTS.—An oath or declaration under subsection (a) shall contain statements that—

(1) the application was made or was authorized to be made by the affiant or declarant; and

(2) such individual believes himself or herself to be the original inventor or an original joint inventor of a claimed invention in the application.

“(c) ADDITIONAL REQUIREMENTS.—The Director may specify additional information relating to the inventor and the invention that is required to be included in an oath or declaration under subsection (a).

“(d) SIGNMENT OF RECORD.—An individual who is an inventor of an invention but has refused to make the oath or declaration required under subsection (a).

“(e) MAKING REQUIRED STATEMENTS IN ASSIGNMENT OF RECORD.—An individual who is under an obligation to assign the invention but has refused to make the oath or declaration under subsection (a).

“(f) CONTENTS.—A substitute statement under this subsection shall—

(A) identify the individual with respect to whom the statement applies;

(B) set forth the circumstances representing the permitted basis for the filing of the substitute statement in lieu of the oath or declaration under subsection (a); and

(C) contain any additional information, including any showing, required by the Director.

“(g) EARLIER-FILED APPLICATION CONTAINING REQUIRED STATEMENTS OR SUBSTITUTION STATEMENT.—

(1) EXCEPTION.—The requirements under this section shall not apply to an individual with respect to an application for patent in which the individual is named as the inventor or a joint inventor and who claims the benefit under section 120, 121, or 365(c) of the filing of an earlier-filed application, if—

(A) an oath or declaration meeting the requirements of subsection (a) was executed by the individual and was filed in connection with the earlier-filed application;

(B) a substitute statement meeting the requirements of subsection (d) was filed in the earlier filed application with respect to the individual; or

(C) the statement meeting the requirements of subsection (e) was executed with respect to the earlier-filed application by the individual and was recorded in connection with the earlier-filed application.

“(h) CATEGORIES OF STATEMENTS.—Notwithstanding paragraph (1), the Director may require that a copy of the executed oath or declaration, the substitute statement, or the assignment filed in the earlier-filed application be included in the later-filed application.

“(i) SUPPLEMENTAL AND CORRECTED STATEMENTS; FILING ADDITIONAL STATEMENTS.—

(1) IN GENERAL.—Any person making a statement required under this section may withdraw, replace, or otherwise correct the statement at any time if a change is made in the naming of the inventor requiring the filing of 1 or more additional statements under this section, the Director shall establish regulations by which such additional statements may be filed.

“(2) SUPPLEMENTAL STATEMENTS NOT REQUIRED.—If an individual has executed an oath or declaration meeting the requirements of subsection (a) or an assignment meeting the requirements of subsection (e) with respect to an application for patent, the Director may not thereafter require that individual to make any additional oath, declaration, or other statement equivalent to those required by this section in connection with the application for patent or any patent issuing thereon.

“(j) SAVINGS CLAUSE.—No patent shall be invalid or unenforceable based upon the failure to comply with a requirement under this section if the failure is remedied as provided under paragraph (1).

“(k) ACKNOWLEDGMENT OF PENALTIES.—Any declaration or statement filed pursuant to this section shall contain an acknowledgment that any willful false statement made in such declaration or statement is punishable under section 1001 of title 18 by fine or imprisonment of not more than 5 years, or both.

“(l) RELATIONSHIP TO DIVISIONAL APPLICATIONS.—Section 121 of title 35, United States Code, is amended by striking “If a divisional application and all that follows through “inventor.”.

“(m) REQUIREMENTS FOR NONPROVISIONAL APPLICATIONS.—Section 111(a) of title 35, United States Code, is amended—

(A) in paragraph (2)(C), by striking “by the applicant” and inserting “or declaration”;

(B) in the heading for paragraph (3), by inserting “OR DECLARATION” after “AND OATH”, and

(C) by inserting “or declaration” after “and oath” each place it appears.

“(n) CONFORMING AMENDMENT.—The item relating to section 115 in the table of sections for chapter 11 of title 35, United States Code, is amended to read as follows: “115. Invention and assignment.”

“(o) FILING BY OTHER THAN INVENTOR.—

(1) IN GENERAL.—Section 118 of title 35, United States Code, is amended to read as follows:

“§ 118. Filing by other than inventor.

“A person to whom the inventor has assigned or is under an obligation to assign the invention may make an application for patent on behalf of and as agent for the inventor on proof of the pertinent facts and such section is appropriate to preserve the rights of the parties. If the Director grants a patent on an application filed under this section by a person other than the inventor, the patent shall be granted to the real party in interest and upon such notice to the inventor as the Director considers to be sufficient.”

“(p) CONFORMING AMENDMENT.—Section 125 of title 35, United States Code, is amended in the third designated paragraph by inserting “as to which there is a legally sufficient evidentiary basis, and the court or jury shall

“(q) SPECIFICATION.—Section 112 of title 35, United States Code, is amended—

(1) in the first paragraph—

(A) by striking “The specification and inserting “(a) IN GENERAL.—The specification”;

(B) by striking “of carrying out his invention” and inserting “or joint inventor of carrying out the invention”;

(2) in the second paragraph—

(A) by striking “The specification and inserting “(b) CONCLUSION.—The specification”;

(B) by striking “applicant regards as his invention” and inserting “inventor or a joint inventor regards as his invention”;

(3) in the third paragraph by striking “A claim” and inserting “(c) FORM.—A claim”;

(4) in the fourth paragraph, by striking “Subject to the following paragraph,” and inserting “(d) REFERENCE IN DISCLOSURE FORMS.—Subject to subsection (e);”;

(5) in the fifth paragraph, by striking “A claim” and inserting “(e) REFERENCE IN MULTIPLE DEPENDENT FORMS.—A claim”;

(6) in the last paragraph, by striking “An element” and inserting “(f) ELEMENT IN CLAIM FOR A COMBINATION.—An element”.

“(q) CONFORMING AMENDMENT.—Section 111(b)(1)(A) is amended by striking “the first paragraph of section 112 of this title” and inserting “section 112(a)”;

Section 111(b)(2) is amended by striking “the second through fifth paragraphs of section 112,” and inserting “sections (b) through (e) of section 112.”

“(r) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 year after the date of the enactment of this Act and shall apply to patent applications that are filed on or after that effective date.

SEC. 4. DAMAGES.

(a) DAMAGES.—Section 284 of title 35, United States Code, is amended—

(1) by striking “Upon finding” and inserting the following: “(a) IN GENERAL.—Upon finding”;

(2) by striking “fixed by the court” and all that follows through “the damages” and inserting the following: “fixed by the court. When the damages”;

(3) by striking “shall assess them.” and all that follows through “may receive” and inserting the following: “shall assess them. The court may receive”; and

(4) by adding at the end the following:

“(k) PROCEDURE FOR DETERMINING DAMAGES.—

(1) IN GENERAL.—The court shall identify the methodologies and factors that are relevant to the determination of damages, and the court or jury shall consider only those methodologies and factors relevant to making such determination.

(2) DISCLOSURE OF CLAIMS.—By no later than the entry of the final pretrial order, unless otherwise ordered by the court, the parties shall state, in writing and with particularity, the methodologies and factors the parties propose for instruction to the jury in determining damages under this section, specifying the relevant underlying legal and factual bases for their assertions.

(3) SUFFICIENCY OF EVIDENCE.—Prior to the introduction of any evidence concerning the determination of damages, upon motion of either party or sua sponte, the court shall consider whether one or more of a party’s damages contentions lacks a legally sufficient evidentiary basis. After providing a nonmovant the opportunity to be heard, and after any further proffer of evidence, briefing, or argument that the court may deem relevant, the court shall determine whether the party’s damages contentions lack a legally sufficient evidentiary basis, and the court or jury shall
became willful.''

quest that the issues of damages and willful
subsection does not authorize a party to re-
this subsection shall not affect other mat-
ificant damages or infringement and valid-
the jury. The court shall grant such a re-
question, such as the absence of issues of sig-
ificant damages or infringement and valid-
the sequencing of a trial pursuant to this subsec-
not affect other parties, such as the timing of discovery. This
subsection does not authorize a party to re-
quest that the issues of damages and willful
infringement be tried to a jury different than the
one that will decide questions of the pat-
ent's infringement and validity.

(d) WILLFUL INFRINGEMENT.

“(1) IN GENERAL.—The court may increase
damages up to 3 times the amount found or
assessed if the court or the jury, as the case
may be, determines that the infringement of
the patent was willful. Increased damages
under this subsection shall not apply to pro-
visional rights under section 154(d). Infringe-
ment of a patent, unless the claimant proves
by clear and convincing evidence that the
accused infringer's conduct with respect to
the patent was objectively reckless. An
accused infringer's conduct was objectively
reckless if the infringer was acting despite
an objectively high likelihood that his ac-
tions constituted infringement of a valid patent
and the existence of an objectively defined risk
was either known or so obvious that it should
have been known to the accused infringer.

“(2) PLEDGING STANDARDS.—A claimant
asserting that a patent was infringed willfully
shall comply with the pleading requirements
set forth under Federal Rule of Civil Proce-
ure (b).

“(3) KNOWLEDGE ALONE INSUFFICIENT.—In-
fringement of a patent may not be found to be
willful solely on the basis that the in-
fringement had knowledge of the infringed
patent.

“(4) PRE-SUIT NOTIFICATION.—A claimant
seeking to establish willful infringement may
not rely on evidence of pre-suit notifi-
cation of infringement unless that notifi-
cation identifies with particularity the as-
serted patent, identifies the product or pro-
cess accused, and explains with particularity
how the product or process infringes one or more claims of the
patent.

“(5) CLOSE CASE.—The court shall not in-
crease damages under this subsection if the
court determines that there is a close case as
to infringement, validity, or enforceability. On
the other hand, the court shall determine whether a close case as to
infringement, validity, or enforceability ex-
ists, and the court shall explain its decision.
Once the court determines that such a close
case exists, the issue of willful infringement
shall not thereafter be tried to the jury.

“(6) INTERRUPTED DAMAGES.—If a court or a
jury finds that the infringement of patent was
willful, the court may increase only those
damages that accrued after the infringement
became willful.

(b) DEFENSE TO INFRINGEMENT B R A N D
EARLIER INVENTOR.—Section 273(b)(6) of title
35, United States Code, is amended to read as
follows:

“(6) PERSONAL DEFENSE.—The defense
under this section may be asserted only by
the person who performed or caused the per-
formance of the acts necessary to establish
the defense as well as any other entity that
controls, is controlled by, or is under com-
munication, or is engaged in a business for
the purpose of licensing the patent, the right to
assign or transfer the patent to the owner, the
right to assign or transfer to another person ex-
clusive rights to the patent. The court may, with
respect to any such transfer or assignment, deter-
mine if that transfer or assignment is for the
purpose of avoiding liability for a patent
infringement, and the court may reduce, cancel,
or refuse to grant damages otherwise available
under section 273(b)(6) in a case in which it
finds that the transfer or assignment was for
the purpose of avoiding liability for a patent
infringement.

“(c) VIRTUAL MARKING.—Section 287(a) of
the patent laws, as amended by section 313(c)
of this Act, is amended by inserting ‘‘patent'’ or
the abbreviation ‘‘pat.'’ together with an
address of a posting on the Internet, access-
able to the public without charge for acquiring
good faith, in writing and with particularity, each claim challenged, the
grounds on which the challenge to each claim is based, and the evidence that
supports the grounds for the challenge to each claim, including:

(A) copies of patents and printed publica-
tions; and

(B) affidavits or declarations of sup-
pporting evidence and opinions, if the peti-
tioner reasonably believes that

“(4) the petition provides such other in-
formation as the Director may require by
regulation; and

“(5) the petitioner provides copies of any of
the documents required under paragraphs (2),
(3), and (4) to the patent owner or, if applica-
ble, the designated representative of the
patent owner,

“(b) PUBLIC AVAILABILITY.—As soon as prac-
ticable after the receipt of a petition under section 311, the Director shall
make the petition available to the public.

“§ 313. Preliminary response to petition

“(a) PRELIMINARY RESPONSE.—If an inter
partes review petition is filed under section
311, the patent owner shall have the right to file a preliminary response
within a time period set by the Director.

“(b) CONTENT OF RESPONSE.—A preliminary
response to a petition for inter partes review
shall forthwith advise the Director why no inter partes
review should be instituted based upon the
failure of the petition to meet any require-
ment of this chapter.

“§ 314. Institution of inter partes review

“(a) INSTITUTION.—The Director may not
authorize an inter partes review to com-
ment unless the Director determines that
the information presented in the petition
filed under section 311 and any response filed
under section 313 shows that there is a rea-
sonable likelihood that the petitioner would
prevail with respect to at least 1 of the
claims challenged in the petition.

“(b) TIMING.—The Director shall determine
whether to institute an inter partes review
under this chapter within 3 months after re-
ceiving a preliminary response under section
313 or, if none is filed, within three months
after the expiration of the time for filing
such a response.

“§ 315. Relation to other proceedings or ac-

“(a) INFRINGEMENT’S ACTION.—An inter partes
review may not be instituted or maintained
if the petitioner or real party in interest has
filed a civil action challenging the validity
of the patent.

“(b) PATENT OWNER’S ACTION.—An inter
partes review may not be instituted if the
petitioner requesting the proceeding is filed
more than 3 months after the date on which
the petitioner, real party in interest, or his
privy is required to respond to a civil action
alleging infringement of the patent.

“§ 316. Challenges against inter partes
review

“(a) CHALLENGE AGAINST INTER PARTES
review.—As the Director in his dis-
cretion, may join as a party to that inter

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parties review any person who properly files a petition under section 311 that the Director, after receiving a preliminary response under section 313 or the expiration of the time for filing such response, determines that there is no just reason for delay and institutes the proceeding of an inter partes review under section 314.

(d) MULTIPLE PROCEEDINGS.—No more than 3 inter partes review, post-grant review, and ex parte reexamination matters may be determined to proceed, in whole or in part, under chapter 30, during the pendency of an inter partes review, if another proceeding or matter involving the same patent is pending before the Office, the Director may determine the manner in which the inter partes review or other proceeding or matter may proceed, including providing for stay, transfer, consolidation, or termination of any such matter or proceeding.

(e) ESTOPPEL.—

(1) PROCEEDINGS BEFORE THE OFFICE.—The petitioner in an inter partes review under this chapter, or his real party in interest or privy, may not request or maintain a proceeding before the Office, if the petitioner or his real party in interest or privy, has agreed or understood, made in connection with, or in contemplation of, the termination of any such matter or proceeding, that the patent owner file with such request or to cause unnecessary delay or an improper use of the proceeding, such as to harass or to cause unnecessary delay or an unnecessary increase in the cost of the proceeding;

(2) CIVIL ACTIONS AND OTHER PROCEEDINGS.—The petitioner in an inter partes review under this chapter, or his real party in interest or privy, may not assert or maintain a civil action or other proceeding or matter, including any additional factual evidence and expert opinions on which the patent owner relies in support of the response;

(3) providing for stay, transfer, consolidation, or termination of any such matter or proceeding.

(f) CONSIDERATIONS.—In prescribing regulations under this section, the Director shall consider the effect of any such regulation on the economy, the integrity of the patent system, the Office, the patent owner, the public, and the ability of the Office to timely complete proceedings instituted under this chapter.

§ 316. Conduct of inter partes review

(a) REGULATIONS.—The Director shall prescribe regulations—

(1) to ensure that the file of any proceeding under this chapter shall be made available to the public, except that any petition or document filed with the intent that it be sealed shall be accompanied by a petition to seal, and such petition or document shall be treated as sealed pending the outcome of the ruling on the motion;

(2) to ensure that standards for the showing of sufficient grounds to institute a review under section 314(b);

(3) establishing procedures for the submission of post-grant review information after the petition is filed;

(4) in accordance with section 2(b)(2), establishing and governing inter partes review under this chapter and the relationship of such review to other proceedings under this title;

(5) setting a time period for requesting joinder under section 315(c) respecting a claim in a petition or any additional factual evidence and expert opinions on which the patent owner relies in support of the response;

(6) setting forth standards and procedures for discovery of relevant evidence, including that such discovery shall be limited to—

(A) witnesses and affidavits or declarations; and

(B) what is otherwise necessary in the interest of justice;

(7) prescribing sanctions for abuse of discovery, abuse of process, or any other improper use of the proceeding, such as to harass or to cause unnecessary delay or an unnecessary increase in the cost of the proceeding;

(8) providing for protective orders governing the exchange and submission of confidential information;

(9) allowing the patent owner to file a response to the petition after an inter partes review has been instituted, and requiring that such response, if filed with such response, through affidavits or declarations, any additional factual evidence and expert understanding so requests, the copy shall be kept separate from the file of the inter partes review, and shall be made available only to Federal Government agencies upon written request, or to any other person on a showing of good cause.

§ 318. Decision of the board

(a) FINAL WRITTEN DECISION.—If an inter partes review petition is decided under this chapter, the Patent Trial and Appeal Board shall issue a final written decision with respect to the patentability of any patent that is the subject of the review by the petitioner and any new claim added under section 316(d).

(b) CERTIFICATE.—If the Patent Trial and Appeal Board issues a final determination under subsection (a) and the time for appeal has expired or any appeal has terminated, the Director shall issue and publish a certificate canceling any claim of the patent finally determined to be unpatentable, confirming any claim of the patent determined to be patentable, or making other determinations under this chapter.

§ 319. Appeal

(a) PARTY SATISFIED.—If a party dissatisfied with the final written decision of the Patent Trial and Appeal Board under section 318(a) may appeal the decision pursuant to sections 141 through 144. Agreements between the inter partes review shall have the right to be a party to the appeal.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The table of chapters for part III of title 35, United States Code, is amended by striking the item relating to chapter 31 and inserting the following:

31. Inter Partes Review

(c) REGULATIONS AND EFFECTIVE DATE.

(1) REGULATIONS.—The Director shall, not later than the date that is 1 year after the date of the enactment of this Act, issue regulations to carry out chapter 31 of title 35, United States Code, as amended by subsection (a) of this section.

(2) APPLICABILITY.—The amendments made by subsection (a) shall take effect on the date that is 1 year after the date of the enactment of this Act and shall apply to all proceedings, or to any after the effective date of subsection (a).

(3) EXCEPTION.—The provisions of chapter 31 of title 35, United States Code, as amended by subsection (a), shall continue to apply to requests for inter partes reexamination that are filed prior to the effective date of subsection (a) as if subsection (a) had not been enacted.

(d) GRADUATED IMPLEMENTATION.—The Director may impose a limit on the number of inter partes reviews that may be instituted during each of the first 4 years following the effective date of subsection (a), provided that such number shall in each year be equivalent to or greater than the number of inter partes reviews that are filed in the last full fiscal year prior to the effective date of subsection (a).

(2) TRANSITION.—

(A) IN GENERAL.—Chapter 31 of title 35, United States Code, is amended—

(i) in section 312—

(A) in section 312—

(aa) in the first sentence, by striking "a substantial new question of patentability affecting any claim of the patent concerned is raised by the request," and inserting "the invention described in the request shows that there is a reasonable likelihood that the requester would prevail with respect to at least 1 of the claims challenged in the request;" and

(bb) in the second sentence, by striking "the existence of a substantial new question
of patentability" and inserting "A showing that there is a reasonable likelihood that the requester would prevail with respect to at least 1 of the claims challenged in the request." VerDate Mar 15 2010 01:47 Aug 19, 2011 Jkt 099060 PO 00000 Frm 00067 Fmt 0624 Sfmt 0634 E:\RECORD11\RECFILES\S25JA1.REC S25JA1bjneal on DSK2TWX8P1PROD with CONG-REC-ONLINE

(ii) in subsection (c), in the second sentence, by striking "no substantial new question of patentability has been raised," and inserting "it has been shown that there is a reasonable likelihood that the requester would prevail with respect to at least 1 of the claims challenged in the proceeding." VerDate Mar 15 2010 01:47 Aug 19, 2011 Jkt 099060 PO 00000 Frm 00067 Fmt 0624 Sfmt 0634 E:\RECORD11\RECFILES\S25JA1.REC S25JA1bjneal on DSK2TWX8P1PROD with CONG-REC-ONLINE

(b) APPLICATION.—The amendments made by this paragraph shall apply to requests for inter partes reexamination that are filed on or after the date of the enactment of this Act, but prior to the effective date of subsection (a).

(d) POST-GRANT REVIEW.—Part III of title 35, United States Code, is amended by adding at the end the following:

CHAPTER 32—POST-GRANT REVIEW

Sec.
321. Post-grant review.
322. Petitions.
323. Preliminary response to petition.
324. Institution of post-grant review.
325. Relation to other proceedings or actions.
326. Conduct of post-grant review.
327. Settlement.
328. Decision of the board.
329. Appeal.

321. Post-grant review

(a) IN GENERAL.—Subject to the provisions of this chapter, a person who is not the patent owner may file with the Office a petition for a post-grant review of a patent. The Director shall establish, by regulation, fees to be paid by the person requesting the review, in such amounts as the Director determines to be reasonable, considering the aggregate costs of the post-grant review. VerDate Mar 15 2010 01:47 Aug 19, 2011 Jkt 099060 PO 00000 Frm 00067 Fmt 0624 Sfmt 0634 E:\RECORD11\RECFILES\S25JA1.REC S25JA1bjneal on DSK2TWX8P1PROD with CONG-REC-ONLINE

(b) SCOPE.—A petitioner in a post-grant review may request to cancel or make patent unpatentable 1 or more claims of a patent on any ground that could be raised under paragraph (2) or (3) of section 223(b) (relating to invalidity of the patent or any claim).

(c) CONTENT.—A petition for a post-grant review shall be filed not later than 9 months after the grant of the patent or issuance of a reissue patent.

322. Petitions

(a) GOVERNMENTS OF PETITION.—A petition filed under section 321 may be considered only if—

(1) the petition is accompanied by payment of the fee established by the Director under section 321;

(2) the petition identifies all real parties in interest;

(3) the petition identifies, in writing and with particularity, each claim challenged, the grounds on which the challenge to each claim is based, and the evidence that supports such grounds for the challenge to each claim, including—

(A) copies of patents and printed publications that the petitioner relies upon in support of the grounds for challenge; and

(B) affidavits or declarations of supporting evidence and opinions, if the petitioner relies on other factual evidence or on expert opinions;

(4) the petition provides such other information as the Director may require by regulation; and

(5) the petitioner provides copies of any of the documents required under paragraphs (2), (3), and (4) to the patent owner or, if applicable, the designated representative of the patent owner.

(b) PUBLIC AVAILABILITY.—As soon as practicable after the receipt of a petition under section 321, the Director shall make the petition available to the public.

323. Preliminary response to petition

(a) PRELIMINARY RESPONSE.—If a post-grant review petition is filed under section 321, the petitioner has the right to file a preliminary response within 2 months of the filing of the petition.

(b) CONTENT OF RESPONSE.—A preliminary response to a post-grant review petition shall set forth reasons why no post-grant review should be instituted based upon the failure of the petition to meet any requirement of this chapter.

324. Institution of post-grant review

(a) THRESHOLD.—The Director may not authorize a post-grant review to commence unless the information presented in the petition, if such information is not rebutted, would demonstrate that there is more than a remote likelihood that the challenged claims are unpatentable.

(b) ADDITIONAL GROUNDS.—The determination required under subsection (a) may also be satisfied by a showing that the petition raises or supports a ground of unpatentability that is common to other patents or patent applications.

(c) TIMING.—The Director shall determine whether a post-grant review has been properly filed under this chapter within 3 months after receiving a preliminary response under section 323 or, if none is filed, the expiration of the time for filing a preliminary response.

(d) NOTICE.—The Director shall notify the petitioner and patent owner, in writing, of the Director's determination under subsection (a). A notice of the Director's decision shall be available to the public as soon as is practicable.

(e) No appeal.—The determination by the Director whether to institute a post-grant review under this section shall be final and nonappealable.

325. Relation to other proceedings or actions

(a) INFRINGEMENT'S ACTION.—A post-grant review may not be instituted or maintained if the petitioner or real party in interest has filed a civil action challenging the validity of a claim of the patent.

(b) PATENT OWNER'S ACTION.—A post-grant review may not be instituted if the petitioner or real party in interest, or his privy, is required to respond to a civil action alleging infringement of the patent.

(c) JOINING.—A petition for a post-grant review is properly filed against the same patent and the Director determines that more than 1 of these petitions warrants proceeding. The Director may consolidate such reviews into a single post-grant review.

(d) MULTIPLE PROCEEDINGS.—Notwithstanding sections 329 and 335, during the pendency of any post-grant review, if another proceeding or matter involving the patent is before the Director, the Director may stay the proceedings in which the post-grant review or other proceeding or matter may proceed, including proceeding for stay, transfer, consolidation, or to determine the validity of the patent or post-grant review. In determining whether to institute or order a proceeding under this chapter, chapter 30, or chapter 31, the Director may take into account whether, and reject the petition or request because, the same or substantially the same prior art or arguments previously were presented to the Office.

(e) ESTOPPEL.—

(1) PROCEEDINGS BEFORE THE OFFICE.—The petitioner in a post-grant review under this chapter or, if real party in interest or privy, may not request or maintain a proceeding before the Office with respect to a claim on any ground that the petitioner raised or reasonably could have raised during a post-grant review of the claim that resulted in a final written decision under section 328(a).

(2) CIVIL ACTIONS AND OTHER PROCEEDINGS.—The petitioner in a post-grant review under this chapter, or his real party in interest or privy, may not assert either in a civil action arising in whole or in part under section 1338 of title 28 or in a proceeding before the International Trade Commission that a claim in a patent is invalid on any ground that the petitioner raised during a post-grant review of the claim that resulted in a final written decision under section 328(a).

(f) PRELIMINARY INJUNCTIONS.—If a civil action alleging infringement of a patent is filed within 3 months of the grant of the patent and a court may not invalidate the validity of the patent owner’s motion for a preliminary injunction against infringement of the patent on the basis that a petition for post-grant review has been filed or that a proceeding has been instituted.

(g) REISSUE PATENTS.—A post-grant review may not be instituted if the petition requests cancellation of a claim in a reissue patent that is identical to or narrower than a claim in the original patent from which the reissue patent was issued, or to substitute for such claim an allowable claim.

(h) Issue of Review.—If during the pendency of any such matter or proceeding, the Director has issued a decision under section 328(a) or if a civil action has been filed a civil action challenging the validity of a patent on the basis that a petition for post-grant review has been filed, the Director may not institute a proceeding against the same patent.

326. Conduct of post-grant review

(a) REGULATIONS.—The Director shall prescribe regulations—

(1) providing for the mailing of any proceeding under this chapter shall be made available to the public, except that any petition, document or pleading which the Director determines to be confidential information; and

(2) establishing procedures for the submission of supplemental information after the petition is filed;

(b) in accordance with section 2(b)(2), establishing and governing a post-grant review under this chapter and the relationship of such review to other proceedings under this title;

(c) setting forth standards for the showing of sufficient grounds to institute a review under subsections (a) and (b) of section 324;

(d) establishing procedures for the submission of supplemental information after the petition is filed;

(e) in accordance with section 2(b)(2), establishing and governing a post-grant review under this chapter and the relationship of such review to other proceedings under this title;

(f) prescribing procedures for discovery of relevant evidence, including that such discovery shall be limited to evidence directly related to factual assertions advanced by either party in the proceeding; and

(g) allowing the patent owner to file a request that a post-grant review has been instituted, and requiring that the patent owner file with such response,
through affidavits or declarations, any addi-
tional factual evidence and expert opinions on
which the patent owner relies in support of
the response.

(7) Adhering to the standards and procedures for
allowing the patent owner to move to ame-
dend the patent under subsection (d) to
cancel a challenged claim or propose a rea-
sional substitute claim, evidencing that any infor-
mation submitted by the patent owner in support of any amend-
ment entered under subsection (d) is made available as part of the pro-
secution history of the patent;

(10) providing either party with the right to
an oral hearing as part of the proceeding;

and

(11) requiring that the final determina-
tion in any post-grant review be issued not
later than 1 year after the date on which the
Director notices the institution of a pro-
ceeding under this chapter, except that the
Director may, for good cause shown, extend the 1-year period by not more than 6 months,
and may adjust the time periods in this para-
graph in the case of jointer under section 323(c).

(12) Considerations.—In prescribing regu-
lations under this section, the Director shall
consider the effect of any such regulation on the
economy, the integrity of the patent sys-
tem, the efficient administration of the Offi-
ces, and the overall consistency in the pro-
ceedings and practices of the Office and in
proceedings and practices under this chapter.

(c) Patent Trial and Appeal Board.—The Patent
Trial and Appeal Board shall, in accordance with section 6, conduct each pro-
ceeding authorized by the Director.

(1) In General.—During a post-grant re-
view instituted under this chapter, the pat-
ent owner may file 1 motion to amend the
patent, and shall do so in the following ways:

(A) Cancel any challenged patent claim.

(B) For each challenged claim, propose a
reasonable number of substitute claims.

(2) Additional Motions.—Additional mo-
tions to amend may be permitted upon the
joint request of the petitioner and the patent
owner to materially advance the settlement
of a proceeding under section 327, or upon the
request of the patent owner for good
cause shown.

(3) Scope of Claims.—An amendment under subsection (d) may not enlarge the
scope of the claims of the patent or intro-
duce new matter.

(e) Evidentiary Standards.—In a post-
grant review under this chapter, the
petitioner shall have the burden of prov-
ning a proposition of unpatentability by a pre-
ponderance of the evidence.

§ 327. Settlement

(a) In General.—A post-grant review in-
stituted under this chapter shall be termi-
nated with respect to any petitioner upon
the joint request of the petitioner and the
patent owner. The Office shall then del-
eermine the merits of the proceeding before the re-
quest for termination is filed. If the post-
grant review is terminated with respect to a peti-
tioner, no appeal under section 323(e) shall apply to that peti-
tioner. If no petitioner remains in the post-
grant review, the Office may terminate the
post-grant review in accordance with section 328(a).

(b) Agreements in Writing.—Any agree-
ment or understanding between the patent
owner, including any collateral agreements referred to in such agree-
ment or understanding, made in connection
with, or in contemplation of, the termi-
nation of a post-grant review under subsection (a) shall be in writing, and a true copy of
such agreement or understanding shall be
filed in the Office before the termination of
the post-grant review as evidence of the
status of the proceeding.

(c) § 328. Decision of the board

(1) Final Written Decision.—If a post-
grant review is instituted and not dismissed
pursuant to section 325 of this title, Paten-
and Appeal Board shall issue a final written deci-
sion with respect to the patentability of any
patent claim challenged by the petitioner
and any new claim added under section 323(c).

(2) Certificate.—If the Patent Trial and
Appeal Board issues a final written decision
with respect to the patentability of any
patent claim challenged by the petitioner
and any new claim added under section 323(d).

(d) Effect of Decision.—If the decision
issued pursuant to this section is final and
is not appealed or summarily affirmed, it
shall become a final decision of the Patent
Trial and Appeal Board. The Director shall
not entertain appeals or other petitions for
review of final decisions of the Patent
Trial and Appeal Board. The Director, the
Commissioner for Trademarks, and the
Deputy Director, the Commissioner for Pat-
tents, the Commissioner for Trademarks, and
any new claim added under section 323(d).

§ 328. Appeal

(a) A party dissatisfied with the final written
decision may request a rehearing before the
Patent Trial and Appeal Board under section 326(a) and may appeal the deci-
sion pursuant to sections 141 through 144.

Any party to the post-grant review shall
have the right to be a party to the appeal.

(b) Technical and conforming amend-
ments.—The table of chapters for part III of
the United States Code, as added by adding at the end the following:

32. Post-Grant Review ............ 321.

(c) Additional Information.—A party
may request additional information sub-
nitted pursuant to subsection (a)(2) shall include any other
documents, pleadings, or evidence from the
proceeding in which the statement was filed that was the basis for any
of the circumstances listed in subsection (a).

(d) Limitations.—A written statement
submitted pursuant to subsection (a)(2), and additional information submitted pursuant to subsection (c), shall be made avail-
able to the Office for any purpose other than to deter-
mine the proper meaning of a patent claim in a proceeding that is ordered or in
stituted pursuant to section 304 or 324. If any
such written statement or additional infor-
mation is subject to an applicable protective
order, it shall be redacted to exclude in-
fornation that is subject to such protective
order.

(e) Confidentiality.—Upon the written
request of the person citing prior art or writ-
ten statements pursuant to subsection (a),
that person's identity shall be excluded from
the patent file and kept confidential.

(f) Effective Date.—The amendment
made by this subparagraph shall take effect 1
year after the date of the enactment of this Act and shall apply to patents issued before, on, or after that effective date.

(h) Reexamination.—

(1) Determination by Director.—

(A) In General.—Section 303(a) of title 35,
United States Code, is amended by striking
"and Interferences or the Patent Trial and
Appeal Board. The Director, the
Commissioner for Trademarks, and
Deputy Director, the Commissioner for Pat-
tents, the Commissioner for Trademarks, and
any new claim added under section 323(d)." and inserting "sec-
tion 301 or 302".

(B) Effective Date.—The amendment
made by this paragraph shall take effect 1
year after the date of the enactment of this Act and shall apply to patents issued before, on, or after that effective date.

(2) Appeal.—

(A) In General.—Section 306 of title 35,
United States Code, is amended by striking
"" fifteen" and inserting ""fourteen".

(B) Effective Date.—The amendment
made by this paragraph shall take effect on
the date of enactment of this Act and shall apply to appeals of reexaminations that are
pending before the Board of Patent Appeals and
Interferences or the Patent Trial and
Appeal Board on or after the date of the en-
actment of this Act.

§ 6. Patent Trial and Appeal Board

(a) There shall be in the Office a Patent
Trial and Appeal Board. The Board may be
headed by the Deputy Director, the Commissioner for Pat-
ten, the Commissioner for Trademarks, and
the administrative patent judges shall constitute the Patent Trial and Appeal Board. The administrative patent judges shall be persons of competent legal knowledge and scientific ability who are appointed by the Secretary, in consultation with the Director. Any reference in any Federal law, Executive order, rule, regulation, or delegation of authority to, or appointment of the pertaining to the Board of Patent Appeals and Interferences is deemed to refer to the Patent Trial and Appeal Board.

(b) The Patent Trial and Appeal Board shall—

(1) on written appeal of an applicant, review adverse decisions of examiners upon applications for patents pursuant to section 134(a);

(2) review appeals of reexaminations pursuant to section 134(b);

(3) conduct derivation proceedings pursuant to section 135; and

(4) conduct inter partes reviews and post-grant reviews pursuant to chapters 31 and 32.

(c) Each appeal, derivation proceeding, post-grant review, and inter partes review shall be heard by at least 3 members of the Patent Trial and Appeal Board, who shall be designated by the Director. Only the Patent Trial and Appeal Board may grant rehearings.

(d) The Secretary of Commerce may, in his discretion, deem the appointment of an administrative patent judge who, before the date of the enactment of this subsection, held office pursuant to an appointment by the Director to take effect on the date on which the Director initially appointed the administrative patent judge. It shall be a defense to a challenge to the appointment of an administrative patent judge on the basis of the judge’s having been originally appointed by the Director that the administrative patent judge so appointed was acting as a de facto officer.

(e) ADMINISTRATIVE APPEALS.—Section 134 of title 35, United States Code, is amended—

(1) by striking subsection (c).

(2) by striking subsection (d).

(3) by striking paragraph (2) and inserting the following: "(2) by striking paragraph (2) and inserting the following: "(2) conduct inter partes reviews and post-grant reviews pursuant to chapters 31 and 32."

(4) by repealing the second of the two identical fourth sentences.

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 year after the date of the enactment of this Act and shall apply to proceedings commenced on or after that effective date, except that—

(1) the extension of jurisdiction to the United States Court of Appeals for the Federal Circuit to entertain appeals of decisions of the Patent Trial and Appeal Board, with respect to patent applications, derivation proceedings, reexaminations, post-grant reviews, and inter partes reviews at the instance of a party who exercised his right to participate in a proceeding before or appeal to the Board, except that an applicant or a party to a derivation proceeding may have some remedy by civil action pursuant to section 122 by the Office, or

(2) the later of—

(i) 6 months after the date on which the application for patent is first published under section 122 by the Office, or

(ii) the date of the first rejection under section 132 of any claim by the examiner during the examination of the application for patent.

(g) OTHER REQUIREMENTS.—Any submission under paragraph (2) of section 31 of the Trademark Act of 1946 shall be accompanied by such fee as the Secretary of Commerce may prescribe; and

(h) include a statement by the person making such submission affirming that the submission was made in compliance with this section."
any submission to, and for all other services performed by or materials furnished by, the Office, provided that patent and trademark fee amounts are in the aggregate set to reduce processing, activities, services and materials relating to patents and trademarks, respectively, including proportionate shares of the administrative costs of the Office.

(2) SMALL AND MICRO ENTITIES.—The fees established under paragraph (1) for filing, processing, issuing, and maintaining patent applications and trademark applications shall be reduced by 50 percent with respect to their application to any small entity that qualifies for reduced fees under (7) of title 35, United States Code, and shall be reduced by 75 percent with respect to their application to any micro entity as defined in section 123 of this title.

(3) REDUCTION OF FEES IN CERTAIN FISCAL YEARS.—In any fiscal year, the Director—

(A) shall consult with the Patent Public Advisory Committee and the Trademark Public Advisory Committee on the advisability of reducing any fees described in paragraph (1); and

(B) shall consult with the Chair and Ranking Member of the Senate and House Judiciary Committees, the Congress of any final rule setting or adjusting fees under paragraph (1).

(4) RULE OF THE PUBLIC ADVISORY COMMITTEE.—The Director shall—

(A) provide to the relevant advisory committee a 30-day period following the submission of any proposed fee, on which to deliberate, consider, and comment on such proposal, and require that—

(i) during such 30-day period, the relevant advisory committee hold a public hearing related to such proposal; and

(ii) the Director shall consult with the relevant advisory committee in carrying out such public hearing, including by offering the use of Office resources to notify and promote the hearing to the public and interested stakeholders;

(C) require the relevant advisory committee to make available to the public a written report detailing the comments, advice, and recommendations of the committee regarding any proposed fee;

(D) provide for an opportunity to analyze any comments, advice, or recommendations received from the relevant advisory committee before setting or adjusting any fee; and

(E) provide for a public hearing, through the Chair and Ranking Member of the Senate and House Judiciary Committees, the Congress of any final rule setting or adjusting fees under paragraph (1).

(5) PUBLICATION IN THE FEDERAL REGISTER.—

(A) IN GENERAL.—Any rules prescribed under this subsection shall be published in the Federal Register.

(B) RATIONALE.—Any proposal for a change in fees under this section shall—

(i) be published in the Federal Register; and

(ii) include, in such publication, the specific rationale and purpose for the proposal, including the possible expectations or benefits resulting from the proposed change.

(C) PUBLIC COMMENT PERIOD.—Following the publication of any proposed fee in the Federal Register pursuant to subparagraph (A), the Director shall seek public comment for a period of not less than 45 days.

(D) CONGRESSIONAL COMMENT PERIOD.—Following the notification described in paragraph (C), the Director shall have not more than 45 days to consider and comment on any final rule setting or adjusting fees under paragraph (1). No fee set or adjusted under paragraph (1) shall be effective prior to the end of such 45-day comment period.

(7) RULE OF CONSTRUCTION.—No rules prescribed under this subsection may diminish—

(A) an applicant’s rights under title 35, United States Code, or the Trademark Act of 1946, or

(B) any rights under a ratified treaty.

(f) RULE OF CONSTRUCTION.—Nothing in this subsection (h), the provisions of this section, or any submission to, and for all other services performed by or materials furnished by, the Office, provided that patent and trademark fee amounts are in the aggregate set to reduce processing, activities, services and materials relating to patents and trademarks, respectively, including proportionate shares of the administrative costs of the Office.

SEC. 19. SUPPLEMENTAL EXAMINATION.

(a) IN GENERAL.—Chapter 25 of title 35, United States Code, is amended by adding at the end the following:

"§ 257. Supplemental examination to consider reexaminable or invalidating combination of references.

"(a) IN GENERAL.—A patent owner may request supplemental examination of a patent in the Office to consider, reconsider, or correct information believed to be relevant to the patent. Within 3 months of the date a request for supplemental examination meeting the requirements of this section is received, the Director shall—

(i) conduct an examination; and

(ii) issue a certificate indicating whether the information presented in the request raises a substantial new question of patentability.

(b) REEXAMINATION ORDERED.—If a supplemental examination is ordered under paragraph (a), the reexamination shall include any patents identified as infringing patents in the request for supplemental examination, and to consider each substantial new question of patentability identified during the supplemental examination. Upon the conclusion of the reexamination, the Director shall provide the patent owner with a certificate indicating whether the information presented in the request raises a substantial new question of patentability.

(c) EFFECT.—

"(1) IN GENERAL.—A patent shall not be held unenforceable on the basis of conduct relating to information that had not been available to the patent owner and was not the subject of any prior examination in the Office or any other jurisdiction.

"(2) EXCEPTION.—In a patent infringement action, where the information presented in the request raises a substantial new question of patentability, the court may, in its discretion, consider the patent owner’s post-grant patent application and any other information submitted in the request for supplemental examination.

(d) FEES AND REGULATIONS.—The Director shall, by regulation, establish fees for the submission of a request for supplemental examination and for reexamination, and each item of information submitted in the request. If reexamination is ordered pursuant
to subsection (a), fees established and applicable to ex parte reexamination proceedings under chapter 30 shall be paid in addition to fees applicable to supplemental examination. The Director shall promulgate regulations governing the form, content, and other requirements of requests for supplemental examination, and establishing procedures for conducting a review of information submitted in such requests.

"(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed—

"(1) to limit the authority of the Director to investigate issues of possible misconduct and impose sanctions for misconduct in connection with matters or proceedings before the Office; or

"(2) to limit the authority of the Director to promulgate regulations under chapter 3 relating to sanctions for misconduct by representatives practicing before the Office.

(b) E FFECTIVE DATE.—This section shall take effect 1 year after the date of the enactment of this Act and shall apply to patents issued on or after that date.

SEC. 11. RESIDENCY OF FEDERAL CIRCUIT JUDGES.

(a) RESIDENCY.—The second sentence of section 432(c) of title 28, United States Code, is repealed.

(b) FACILITIES.—Section 41 of title 28, United States Code, is amended by adding at the end the following:

"(c) ASSIGNED APPLICATION.—For an assigned application, each applicant shall certify that the applicant—

"(1) qualifies for a small entity, as defined in regulations issued by the Director, and meets the requirements of subsection (b)(2);

"(2) has not been named on 5 or more previously filed patent applications; and

"(3) is not subject to an obligation by contract or law to assign, grant, convey, or otherwise unconditionally transfer patent rights to the Government.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act and shall apply to any patents issued on or after that date.

SEC. 14. TAX STRATEGIES DEEMED WITHIN THE PURVIEW OF THE PATENT ACT.

(a) IN GENERAL.—For purposes of evaluating an invention under section 102 or 103 of title 35, United States Code, any strategy for reducing, avoiding, or deferring tax liability, whether known or unknown at the time of the invention or application for patent, shall be deemed insufficient to differentiate a claimed invention from the prior art.

(b) DEFINITION.—For purposes of this section, the term “tax liability” refers to any liability for a tax under any Federal, State, or local law, including any foreign jurisdiction, including any statute, rule, regulation, or ordinance that levies, imposes, or assesses such tax liability.

(c) EFFECTIVE DATE; APPLICABILITY.—This section shall take effect on the date of enactment of this Act and shall apply to any patent application pending on or after that date.

SEC. 15. BEST MODE REQUIREMENT.

(a) IN GENERAL.—Section 282 of title 35, United States Code, is amended to provide that the patentee, not the Director, is the party responsible for challenging the patentee’s failure to disclose the best mode of carrying out the invention in the patent.

(b) MULTIPLE REISSUED PATENTS.—The Director shall be responsible for challenging the patentee’s failure to disclose the best mode of carrying out the invention in a reissued patent.

(c) EFFECTIVE DATE.—This section shall take effect on the date of enactment of this Act and shall apply to any patent application pending on or after that date.

SEC. 16. TECHNICAL AMENDMENTS.

(a) JOINT INVENTIONS.—Section 116 of title 35, United States Code, is amended—

"(1) in the first paragraph, by striking "When" and inserting "(a) JOINT INVENTIONS.—When"; and

"(2) in the second paragraph, by striking "If a joint inventor and" and inserting "(b) JOINT INVENTION.—If a joint inventor and"; and

"(3) in the third paragraph, by striking "(c) mult" and inserting "(c) MULTIPLE REISSUED PATENTS.—"; and

"(d) FILING OF APPLICATION IN FOREIGN COUNTRY.—Section 184 of title 35, United States Code, is amended—

"(1) in the first paragraph—

"(A) by striking "Except when" and inserting "(A) by striking "Except when"; and

"(B) by striking "and without deceptive intent" and inserting "and without deceptive intent"; and

"(2) in the second paragraph, by striking "The term" and inserting "(b) APPLICATION.—The term"; and

"(3) in the third paragraph, by striking "of section and inserting "of section 477 and (c) SUBSEQUENT MODIFICATIONS, AMENDMENTS, AND SUPPLEMENTS.—The scope".

(b) CANCELLATION OR ABANDONMENT OF PATENTS.—Section 185 of title 35, United States Code, is amended—

"(1) in the first paragraph—

"(A) by striking "Whenever" and inserting "(A) by striking "Whenever"; and

"(B) by striking "without any deceptive intention"; and

"(2) in the second paragraph, by striking "The Director" and inserting "(b) MULTIPLE REISSUED PATENTS.—The Director"; and

"(3) by striking "The provisions" and inserting "(c) APPLICABILITY OF THIS TITLE.—The provisions"; and

"(4) in the last paragraph, by striking "No reissued patent" and inserting "(d) MULTIPLE REISSUED PATENTS.—";

"(e) EFFECT OF REISSUE.—Section 233 of title 35, United States Code, is amended—

"(1) in the first paragraph, by striking "Whenever, without any deceptive intention," and inserting "(a) IN GENERAL.—Whenever"; and

"(2) in the second paragraph, by striking "in like manner" and inserting "(b) ADDITIONAL DISCLAIMER OR DEDICATION.—In the manner set forth in subsection (a)

"(c) CORRECTION OF NAMED INVENTOR.—Section 256 of title 35, United States Code, is amended—

"(1) in the first paragraph—

"(A) by striking "Whenever"; and inserting "(A) by striking "Whenever"; and

"(B) by striking "and such error arose without any deceptive intention on his part"; and

"(2) in the second paragraph, by striking "and the error" and inserting "(b) PATENT VALID IF ERROR CORRECTED—The error";

"(g) PRESUMPTION OF VALIDITY.—Section 282 of title 35, United States Code, is amended—

"(1) in the first paragraph—

"(A) by striking "A patent" and inserting "(A) by striking "A patent"; and

"(B) by striking the third sentence; and

"(2) in the second paragraph, by striking "The following" and inserting "(b) DEFENSES.—The following"; and

"(3) in the third paragraph, by striking ""The patent"" and inserting "(c) REISSUE PATENT ENLARGING SCOPE OF CLAIMS.—No reissued patent."
(3) in the third undesignated paragraph, by striking “In actions” and inserting “(e) Notice of Actions: Actions During Extension of Patent Term.—In actions

(b) CONTINUITY OF INTENT UNDER THE CREATE ACT.—The enactment of section 102(c) of title 35, United States Code, under section 2(b)(2) of this Act is done with the same intent to promote joint research activities that was expressed, including in the legislative history, through the enactment of the Cooperative Research and Technology Enhancement Act of 2004 (Public Law 108-453; the “CREATE Act”), the amendments of which are stricken by section 2(c) of this Act. The United States Patent and Trademark Office shall administer section 102(c) of title 35, United States Code, in a manner consistent with the legislative history of the CREATE Act that was relevant to its administration by the United States Patent and Trademark Office.

Mr. HATCH. Mr. President, I rise to express support for the Patent Reform Act of 2011, S. 21, introduced today by Senate Judiciary Committee Chairman PATRICK LEAHY. Senator LEAHY and I, along with a number of our colleagues, have worked for years to enact much-needed reform to our Nation’s patent system.

Last Congress, the Managers’ Amendment to the Patent Reform Act of 2009, S. 515, enjoyed strong bipartisan support for a floor consideration and passage; the momentum undoubtedly will continue under the leadership of Judiciary Committee Chairman LEAHY and Ranking Minority Member PATRICK S. LEAHY. House Judiciary Committee Chairman LAMAR SMITH and Ranking Minority Member JOHN CONYERS are true partners in this important legislation. They share the same desire to streamline our patent system in a way that will improve the clarity and quality of patents issued by the U.S. Patent and Trademark Office, USPTO, which in return will provide greater confidence in their validity and enforcement.

I have said this before, but it bears repeating: we must ensure that our patent system is as strong and vibrant as possible, not only to protect our country’s premier position as the world leader in innovation, but also to secure our economic competitiveness by encouraging technological advancement by providing incentives to invent, invest in, and disclose new technology. Now, more than ever, it is important to ensure efficiency and increased quality in the patent application process. This in turn will create an environment that fosters entrepreneurship and the creation of new jobs.

One single deployed patent has positive effects across almost all sectors of our economy. As a result, properly examined patents, promptly issued by the USPTO, creates jobs—jobs that are dedicated to developing and producing new products and services. Unfortunately, the current USPTO backlog of applications now exceeds 700,000 applications. The sheer volume of patent applications not only reflects the vibrant, innovative spirit that has made America a world-wide leader in science, engineering, and technology, but also represents dynamic economic growth waiting to be unleashed.

If enacted, the Patent Reform Act of 2011 would move the United States to a first-inventor-to-file system, which will bring greater harmony and improve our competitiveness. Also, among other things, the bill would improve the system for administratively challenging the validity of a patent at the USPTO; improve patent quality; create a supplemental examination process for patent owners; prevent patents from being issued on claims for tax strategies; and provide fee-setting authority for the USPTO Director to ensure the Office is properly funded.

This bipartisan bill also contains provisions on venue; changes to the best mode; increased incentives for government laboratories to commercialize inventions; restrictions on false marking claims, and removes restrictions on the residency of Federal Circuit judges.

We have been working on this legislation since 2006. Reforming our patent system is a critical priority whose time has more than come. It is essential to growing our economy, creating jobs and promoting innovation in our Nation. I encourage my colleagues to join in this effort and help move this important legislation forward.

By Mrs. SHAHEEN (for herself, Mr. KIRK, and Mr. DURBIN):

S. 25. A bill to phase out the Federal sugar program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mrs. SHAHEEN. Mr. President, 1 ask unanimous consent that the text of the bill be printed in the RECORD.

The text of the bill was ordered to be printed in the RECORD, as follows:

S. 25

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

SECTION 1. SHORT TITLE. This Act may be cited as the “Stop Unfair Giveaways and Restrictions Act of 2011” or “SURGAR Act of 2011.”

SEC. 2. SUGAR PROGRAM.

(a) In general.—Section 208 of the United States Code, is amended by striking “of this title” each place that term appears.

(b) Effective date.—The amendments made by this section shall take effect 1 year after the date of the enactment of this Act and shall apply to proceedings commenced on or after that effective date.

(c) Unnecessary references.—

(1) In general.—Title 35, United States Code, is amended by striking “of the treaty”.

(2) In section 208(d)(1) of title 35, United States Code, is amended by striking “any state” and inserting “any State”.

(3) In section 371(b) of title 35, United States Code, is amended by striking “of the treaty” and inserting “of the treaty.”.

(d) Unnecessary references.—

(1) In general.—Title 35, United States Code, is amended by striking “of this title” each place that term appears.

(2) Effective date.—The amendments made by this paragraph (1) shall not apply to the use of such sections in the following sections of title 35, United States Code:

(A) Section 1(c).

(B) Section 101.

(C) Subsections (a) and (b) of section 105.

(D) The first instance of the use of such term in section 111(b)(8).

(E) Section 157(a).

(F) Section 161.

(G) Section 164.

(H) Section 171.

(I) Section 251(c), as so designated by this section.

(J) Section 261.

(K) Subsections (g) and (h) of section 271.

(L) Section 287(b)(1).

(M) Section 289.

(N) The first instance of the use of such term in section 375(a).

(e) Effective date.—The amendments made by this section shall take effect 1 year after the date of the enactment of this Act and shall apply to proceedings commenced on or after that effective date.

SEC. 17. EFFECTIVE DATE, RULE OF CONSTRUCTION.

(a) Effective date.—Except as otherwise provided in this Act, the provisions of this Act shall take effect 1 year after the date of the enactment of this Act and shall apply to any patent issued on or after that effective date.

(b) Continuity of Intent Under the Create Act.—The enactment of section 102(c) of title 35, United States Code, under section 2(b)(2) of this Act is done with the same intent to promote joint research activities that was expressed, including under the Cooperative Research and Technology Enhancement Act of 2004 (Public Law 108-453; the “CREATE Act”), the amendments of which are stricken by section 2(c) of this Act. The United States Patent and Trademark Office shall administer section 102(c) of title 35, United States Code, in a manner consistent with the legislative history of the CREATE Act that was relevant to its administration by the United States Patent and Trademark Office.

Mr. HATCH. Mr. President, I rise to express support for the Patent Reform Act of 2011, S. 21, introduced today by Senate Judiciary Committee Chairman PATRICK LEAHY. Senator LEAHY and I, along with a number of our colleagues,
amended in the second sentence of the first paragraph—
(A) in paragraph (1), by inserting "(other than sugar beets and sugarcane)" after "commodities;" and
(B) in paragraph (3), by inserting "(other than sugar beets and sugarcane)" after "commodity".
(2) POWERS OF COMMODITY CREDIT CORPORATION.—Section 5(a) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c(a)) is amended by inserting "sugar beets, and sugarcane;" and inserting "and milk;".
(3) PRICE SUPPORT FOR NONAGRICULTURAL COMMODITIES.—Section 201(a) of the Agricultural Act of 1949 (7 U.S.C. 1446(a)) is amended by inserting "milk, sugar beets, and sugarcane;" and inserting "and milk;".
(4) COMMODITY CREDIT CORPORATION STORAGE PAYMENTS.—Section 167 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7237) is repealed.
(5) SUSPENSION AND REPEAL OF PERMANENT PRICE SUPPORT AUTHORITY.—Section 171(a)(1) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7301a(1)) is amended—
(A) by striking subparagraph (E); and
(B) by redesignating subparagraphs (F) through (H), respectively.
(6) STORAGE FACILITY LOANS.—Section 1402(c) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7971) is repealed.
(7) FEEDSTOCK FLEXIBILITY PROGRAM FOR BIOMASS PRODUCERS.—Effective beginning with the 2013 crop of sugar beets and sugarcane, section 9030 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8110) is repealed.
(d) DEFINITIONS.—In this section, the terms "commodity" and "general mining laws" mean—
(A) in paragraph (1), the term ‘general mining laws’; and
(B) in paragraph (2), the term ‘general mining laws’; and
(C) in paragraph (3), the term ‘general mining laws’; and
(D) in paragraph (4), the term ‘general mining laws’.
(2) an adequate supply of sugar at reasonable prices in the United States.
(b) USE OF RESULTS.—In determining the tariff-rate quotas necessary to satisfy the requirements of subsection (a), the Secretary shall consider the following:
(1) The quantity and quality of sugar that will be subject to human consumption in the United States during the quota year.
(2) The quantity and quality of sugar that will be available from domestic processing of sugarcane, sugar beets, and in-process beet sugar.
(3) The quantity of sugar that would provide for reasonable carryover stocks.
(4) The quantity of sugar that will be available from carryover stocks for human consumption in the United States during the quota year.
(5) Consistency with the obligations of the United States under international agreements.
(c) EXEMPTION.—Subsection (a) shall not include specialty sugar.
(d) DEFINITIONS.—In this section, the terms ‘quota year’ and ‘human consumption’ have the meaning such terms had under section 359k of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1331k) as in effect on the day before the date of the enactment of this Act.

**SEC. 5. APPLICATION.**
Except as otherwise provided in this Act, this Act and the amendments made by this Act shall apply to the 2012 crop of sugar beets and sugarcane.

By Mrs. SHAHEEN:
S. 26. A bill to amend the Internal Revenue Code of 1986 to repeal the percentage depletion allowance for certain hardrock mines, and to use the resulting revenues from such repeal for deficit reduction; to the Committee on Finance.

Mrs. SHAHEEN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 26

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

**SECTION 1. SHORT TITLE.**
This Act may be cited as the “Elimination of Double Subsidies for the Hardrock Mining Industry Act of 2011”.

**SECTION 2. REPEAL OF PERCENTAGE DEPLETION ALLOWANCE FOR CERTAIN HARDROCK MINES.**

(a) IN GENERAL.—Section 613(a) of the Internal Revenue Code of 1986 is amended by inserting ‘‘other than hardrock mines located on lands subject to the general mining laws or on land patented under the general mining laws’’ after ‘‘in the case of the mines’’.

(b) GENERAL MINING LAWS DEFINED.—Section 613 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

‘‘(d) GENERAL MINING LAWS.—For purposes of subsection (a), the term ‘general mining laws’ means those Acts which generally comprise chapters 2, 12A, and 16, and sections 161 and 162 of title 30 of the United States Code.’’.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2011.

(d) USE OF RESULTING REVENUES FOR DEFICIT REDUCTION.—From the revenues resulting from the amendment made by subsection (a) shall not be appropriated or otherwise made available for any fiscal year, resulting in a reduction of the Federal budget deficit for such fiscal year. If in any fiscal year there is no Federal budget deficit (determined without regard to such revenues), such revenues shall be used by the Secretary, in such manner as the Secretary of the Treasury considers appropriate.

By Mr. KÖHL (for himself, Mr. GRASSLEY, Mr. DURBIN, Ms. COLLINS, Ms. KLOBuchar, Mr. FRANKEN, Mr. BROWN of Ohio, and Mr. SANDERS):
S. 27. A bill to prohibit brand name drug companies from paying off competitors to delay the entry of a generic drug into the market; to the Committee on the Judiciary.

Mr. KÖHL. Mr. Chairman, I rise today to introduce the Preserve Access to Affordable Generics Act. This bipartisan legislation will dramatically reduce prescription drug costs by preventing one of the most egregious, anti-consumer tactics ever devised to keep generic drugs off the market.

This amendment would combat “pay-for-delay” agreements between brand name and generic drug companies which delay entry of low-cost generic competition. Pay-for-delay agreements are estimated by the FTC to cost consumers $3.5 billion each year, and are estimated by the CBO to cost the federal government more than $2.8 billion over the next decade in higher drug reinsurance payments.

In 2008, $235 billion were spent on prescription drugs in the United States. Generic drugs play a crucial role in containing rising prescription drug costs, by offering consumers therapeutically identical alternatives to brand-name drugs, at a significantly reduced cost. Studies have shown that generic competition to brand name drugs can reduced drug prices by as much as 80 percent. However, in recent years generic entry has frequently been blocked by anti-competitive, anti-consumer agreements between brand-name and generic drug-makers that limit, delay, or otherwise prevent competition from generic drugs.

In pay-for-delay agreements, a brand-name drug manufacturer settles patent litigation by paying off a generic competitor with large amounts of cash, or other valuable consideration to stay off the market until expiration—or a time close to expiration—of the brand-name patent. For example, in 2006, the CEO of Cephalon, which makes the sleep disorder drug Provigil, dealt his company made with four generic drug-makers to keep generic versions of Provigil off the market until 2012. “We were able to get six more years of patent protection,” he said. “That’s $4 billion in sales that no one expected.” Unfortunately, that $4 billion came from the pockets of American consumers.

At their core, pay-for-delay agreements commit brand-name companies to pay off competitors not to compete. The brand name drug company wins because it reaps the profits from eliminating competition. The generic drug company wins because they get paid millions of dollars to do nothing more than drop their patent challenge. But consumers and the American taxpayer loses, to the tune of billions of dollars in higher drug costs every year.

Agreements between competitors, like these, are the most nefarious type of antitrust violation. Unfortunately, when the FTC has challenged “pay-for-delay” agreements, courts have favored big industry interests over consumers. Courts have wrongly concluded that the only way to stop these agreements is immune from antitrust law because it involves the settlement of a patent challenge. In other words, it is permissible for competitors to collude to when it involves a patented drug and in order to keep low cost alternatives out of consumers’ medicine cabinets. These misguided court rulings are what make passage of our legislation so vital.

January 25, 2011
For years, we have seen the use of anticompetitive agreements increase. From 2000 to 2004, there were twenty settlements of drug patent litigation, but we saw no pay-for-delay agreements because drug companies assumed antitrust immunity. But, these settlements became all too prevalent following three courts of appeals decisions in 2005 which effectively found them to be per se legal and prevented the FTC from taking action on behalf of consumers against these settlements.

In the 2 years following these 2005 court decisions, 28 out of 61 patent settlements had provisions in which the brand name drug company made payments to the generic manufacturer in exchange for the generic manufacturer agreeing to delay entry of generic competition. Clearly, pay-for-delay agreements are not necessary to settle a case and, as such, was introduced in the 111th Congress, and the legislation I am introducing today includes in its discretion, deems relevant to its determination of the relevant patent or statutory exclusivity; or

shall not presume—

(1) that entry would not have occurred until the expiration of the relevant patent or statutory exclusivity; or

(2) the support of the purpose and intent of antitrust law by prohibiting anticompetitive practices in the pharmaceutical industry that harm consumers.

SEC. 3. UNLAWFUL COMPENSATION FOR DELAY.

(a) Purposes.—The purposes of this Act are—

(1) to enhance competition in the pharmaceutical market by stopping anticompetitive agreements between brand name and generic drug companies deny consumers the benefits of generic drug competition and costs consumers and the Federal Government billions of dollars. My legislation will give the FTC strong remedies to prevent these agreements when it concludes they harm competition. Millions and millions of Americans that struggle to pay their prescription drug costs and who need low priced generic alternatives are awaiting action on this amendment. I urge my colleagues support for the Preserve Access to Affordable Generics Act.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD:

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

S. 27

SECTION 1. SHORT TITLE.

This Act may be cited as the "Preserve Access to Affordable Generics Act".

SEC. 2. CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) In 1984, the Drug Price Competition and Patent Term Restoration Act (Public Law 98-417) (referred to in this Act as "1984 Act"), was enacted with the intent of facilitating the early entry of generic drugs while preserving incentives for innovation.

(2) Prescription drugs make up 10 percent of the national health care spending but for the past decade have been one of the fastest growing segments of health care expenditures.

(3) Until recently, the 1984 Act was successful in facilitating generic competition to the benefit of consumers and health care payers — although 67 percent of all prescriptions dispensed in the United States are generic drugs, they account for only 20 percent of all expenditures.

(4) Generic drugs cost substantially less than brand name drugs, with discounts off the brand price sometimes exceeding 90 percent.

(5) Federal dollars currently account for an estimated 30 percent of the $235,000,000,000 spent on prescription drugs in 2008, and this share is expected to rise to 40 percent by 2018.

(b) Competitive Factors.—In determining whether the settling parties have met their burden of persuasion by winning the patent infringement claim; and

(7) any other factor that the fact finder, in its discretion, deems relevant to its determination of competitive effects under this subsection.

(c) Limitations.—In determining whether the settling parties have met their burden under subsection (a)(2)(B), the fact finder shall not presume—

(1) that entry would not have occurred until the expiration of the relevant patent or statutory exclusivity; or

(2) that the agreement’s provision for entry of the ANPA product prior to the expiration of the relevant patent or statutory exclusivity means that the agreement is procompetitive, although such evidence may be relevant to the fact finder’s determination under this section.

(d) Exclusions.—Nothing in this section shall prohibit a resolution or settlement of a patent infringement claim in which the consideration granted by the NDA holder to the ANDA filer as part of the resolution or settlement includes one or more of the following:

(1) non-competition with the ANDA filer in the agreement resolving or settling the patent infringement claim;

(2) the revenue the ANDA filer would have received by winning the patent litigation;

(3) the length of time remaining until the end of the life of the relevant patent, compared with the agreed upon entry date for the ANDA product;

(4) the value to consumers of the competition from the ANDA product allowed under the agreement;

(5) the form and amount of consideration received by the ANDA filer in the agreement resolving or settling the patent infringement claim;

(6) the time period between the date of the agreement conveying value to the ANDA filer and the date of the settlement of the patent infringement claim; and
“(1) The right to market the ANDA product in the United States prior to the expiration of—
(A) any patent that is the basis for the patent certification of the ANDA; or
(B) any patent right or other statutory exclusivity that would prevent the marketing of such drug.

“(2) The right to pay for reasonable litigation expenses not to exceed $7,500,000.

“(3) A covenant not to sue on any claim that the ANDA product infringes a United States patent.

“(e) REGULATIONS AND ENFORCEMENT.—

“(1) REGULATIONS.—The Federal Trade Commission shall, in accordance with section 553 of title 5, United States Code, regulations implementing and interpreting this section. These regulations may exempt certain types of agreements described in subsection (a) if the Commission determines such agreements will further market competition and benefit consumers. Judicial review of any such regulation shall be in the United States District Court for the District of Columbia pursuant to section 706 of title 5, United States Code.

“(2) ENFORCEMENT.—A violation of this section shall be treated as a violation of section 5.

“(3) JUDICIAL REVIEW.—Any person, partnership, or corporation that is subject to a final order of the Commission, issued in an administrative adjudicative proceeding under the authority of subsection (a)(1), may, within 30 days of the issuance of such order, petition for review of such order in the United States Court of Appeals for the District of Columbia Circuit or the United States Court of Appeals for the circuit in which the ultimate parent entity, as defined at 16 C.P.R. 801.1(a)(3), of the NDA holder is incorporated as of the date that the NDA is filed, or the Secretary of the Food and Drug Administration, or the United States Court of Appeals for the circuit in which the ultimate parent entity of the ANDA filer is incorporated as of the date that the ANDA is filed with the Secretary of the Food and Drug Administration. In such a review proceeding, the findings of the Commission as to the facts, if supported by evidence, shall be conclusive.

“(f) ANTITRUST LAWS.—Nothing in this section shall be construed to modify, impair or supersede the applicability of the antitrust laws as defined in subsection (a) of the 1st section of the Clayton Act (15 U.S.C. 12(a)) and other laws relating to unfair competition. Nothing in this subsection shall modify, impair, limit or supersede the right of an ANDA filer to assert claims or counterclaims against any person, under the antitrust laws or other laws relating to unfair competition.

“(g) PROTECTION.—

“(1) FORFEITURE.—Each person, partnership, or corporation that violates or assists in the violation of this section shall forfeit and pay to the United States a civil penalty sufficient to deter violations of this section, but in no event greater than 3 times the value received by the person that is reasonably attributable to a violation of this section. The amount of such value has been received by the NDA holder, the penalty to the NDA holder shall be sufficient to deter violations, but in no event greater than 3 times the value given to the ANDA filer reasonably attributable to the violation of this section. Such penalty shall accrue to the United States and shall be the property of the United States. A civil penalty brought by the Federal Trade Commission, in its own name or by any of its attorneys designated by it for such purpose, in a district court of the United States against a corporation, partnership or corporation that violates this section. In such actions, the United States district courts are empowered to grant mandatory injunctions and such other and further equitable relief as they deem appropriate.

“(2) CEASE AND DESIST.—

“(A) IN GENERAL.—If the Commission has issued a cease and desist order with respect to a person, partnership or corporation in an administrative adjudicative proceeding under the authority of subsection (a)(1), an action brought pursuant to paragraph (1) may be commenced against such person, partnership or corporation at any time before the expiration of one year after such order becomes final pursuant to section 5(g).

“(B) EXCEPTION.—In an action under subparagraph (A), the Commission may, in the fact that the material facts in the administrative adjudicative proceeding with respect to such person, partnership or corporation’s violation of this section shall be conclusive unless—

“(i) the terms of such cease and desist order expressly provide that the Commission’s findings shall not be conclusive; or

“(ii) the order became final by reason of section 5(g)(1), in which case such finding shall be conclusive if supported by evidence.

“(C) Compensation.—Determining the amount of the civil penalty described in this section, the court shall take into account—

(A) the nature, circumstances, extent, and gravity of the violation;

(B) with respect to the violator, the degree of culpability, any history of violations, the ability to pay, any effect on the ability to continue doing business, profits earned by the NDA holder, compensation received by the ANDA filer, and the amount of commerce affected; and

(C) other factors that justice requires.

“(3) REMEDIES IN ADDITION.—Remedies provided in this subsection are in addition to, and not in lieu of, any other remedy provided by Federal law. Nothing in this paragraph shall be construed to affect any authority of the Commission under any other provision of law.

“(h) DEFINITIONS.—In this section:

“(1) AGREEMENT.—The term ‘agreement’ means anything that would constitute an agreement under section 1 of the Sherman Act (15 U.S.C. 1)."
written descriptions of any oral agreements, representations, commitments, or promises between the parties that are responsive to subsection (a) or (b) of such section 1112 and have not been reduced to writing."

SEC. 5. FORFEITURE OF 180-DAY EXCLUSIVITY PERIOD.

Section 305(c)(5)(D)(i)(V) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(c)(5)(D)(i)(V)) is amended by inserting "section 28 of the Federal Trade Commission Act or" after "that the agreement has violated." "

SEC. 6. COMMISSION LITIGATION AUTHORITY.

Section 11(a)(2) of the Federal Trade Commission Act (15 U.S.C. 56(a)(2)) is amended— (1) in subparagraph (D), by striking "or" after the semicolon; and (2) in subparagraph (E), by inserting "or" after the semicolon; and (3) inserting after subparagraph (E) the following: "(F) under section 28." 

SEC. 7. STATUTE OF LIMITATIONS.

The Commission shall commence any enforcement proceeding described in section 28 of the Federal Trade Commission Act, as added by section 3, except for an action described in section 11(a)(2) of the Federal Trade Commission Act, not later than 3 years after the date on which the parties to the agreement file the Notice of Agreement as provided by sections 1112(a)(2) and (4) of the Medicare Prescription Drug Improvement and Modernization Act of 2003 (21 U.S.C. 355 note). 

SEC. 8. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such Act or amendments to any person or circumstance shall not be affected thereby.

By Mr. ROCKEFELLER (for himself, Mr. Lautenberg, Mr. Nelson of Florida, Mr. Klobuchar, Mr. Cardin, and Mr. Harkin):

S. 28. A bill to amend the Communications Act of 1934 to provide public safety providers an additional 10 megahertz of spectrum to support a national, interoperable, wireless broadband network and authorize the Federal Communications Commission to hold incentive auctions to provide funding to support such a network, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. ROCKEFELLER. Mr. President, I rise today to reintroduce the Public Safety Spectrum and Wireless Innovation Act.

Radio spectrum is a tremendous resource. It can grow our economy and put innovative wireless services in the hands of consumers and businesses. It also can enhance our public safety by fostering communications between first responders when the unthinkable occurs. But it is also scarce. That is why we need a forward-thinking spectrum policy that promotes smart use of our airwaves—and provides public safety officials with the wireless resources they need to do their job.

For all of these reasons, I believe in the Public Safety Spectrum and Wireless Innovation Act and call on my colleagues to join me and support it. I commit to them that I am open to their input and will work tirelessly with the administration, my Senate and House colleagues, and public safety officials to pass this legislation this year.

The Public Safety Spectrum and Wireless Innovation Act does two things.

First, as we approach the tenth anniversary of 9/11, this legislation will provide public safety officials with an additional 10 megahertz of spectrum known as the "D-block." This spectrum will at long last, support a national, interoperable, wireless broadband network that will help first responders protect us from harm. I believe this is the right thing to do, because we owe those courageous individuals who wear the shield the resources they need to do their job.

Second, this legislation will promote smart spectrum policy and efficient use of our Nation's wireless airwaves. It will do this by providing the Federal Communications Commission with the authority to hold voluntary incentive auctions. These auctions will help put valuable spectrum into the hands of companies that can create innovative new services for American consumers and businesses. This proposal will not require the return of spectrum from existing commercial users, but instead will provide them with a voluntary opportunity to realize a portion of auction revenues to facilitate putting spectrum to new and productive uses. Then the remaining revenues from these auctions will provide a revenue stream to assist public safety with the construction and maintenance of their spectrum network.

Marrying together these ideas—good spectrum policy and the right resources for our first responders—makes good sense. It is also the right thing to do. Because the American people deserve to have the best and most innovative uses of wireless networks anywhere. They deserve to know our first responders have access to the airwaves they need when tragedy strikes. So I urge my colleagues to join me and support this important legislation.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Public Safety Spectrum and Wireless Innovation Act".

(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—NATIONWIDE INTEROPERABLE PUBLIC SAFETY BROADBAND NETWORK

Sec. 101. Establishment of network.

Sec. 102. Reallocation of D block to public safety.

Sec. 103. Flexible use of narrowband spectrum.

Sec. 104. Secondary use of public safety spectrum.

Sec. 105. Interoperability.

Sec. 106. Commercial network roaming and priority access.

Sec. 107. Advisory board.

TITLE II—FUNDING

Sec. 201. Establishment of funds.


Sec. 203. Public safety interoperable broadband maintenance and operation.

Sec. 204. Incentive spectrum auction authority.

Sec. 205. Report on efficient use of public safety spectrum.

Sec. 206. GAO report on satellite broadband.

Sec. 207. Access to GSA schedules.

Sec. 208. Federal infrastructure sharing.

Sec. 209. Audits.


SEC. 2. DEFINITIONS.

In this Act:

(1) 700 MHZ BAND.—The term "700 MHz band" means the portion of the electromagnetic spectrum between the frequencies from 698 megahertz to 806 megahertz.

(2) 700 MHZ D BLOCK SPECTRUM.—The term "700 MHz D block spectrum" means the portion of the electromagnetic spectrum between the frequencies from 758 megahertz to 768 megahertz and between the frequencies from 785 megahertz to 795 megahertz.

(3) ASSISTANT SECRETARY.—The term "Assistant Secretary" means the Assistant Secretary of Commerce for Communications and Information.

(4) COMMISSION.—The term "Commission" means the Federal Communications Commission.

(5) CONSTRUCTION FUND.—The term "construction fund" means the fund established in section 201(a)(1)(A).

(6) EXISTING PUBLIC SAFETY BROADBAND SPECTRUM.—The term "existing public safety broadband spectrum" means the portion of the electromagnetic spectrum between the frequencies from 763 megahertz to 768 megahertz and between the frequencies from 795 megahertz to 799 megahertz.

(7) MAINTENANCE AND OPERATION FUND.—The term "maintenance and operation fund" means the fund established in section 201(a)(2)(A).

(8) NARROWBAND SPECTRUM.—The term "narrowband spectrum" means the portion of the electromagnetic spectrum between the frequencies from 769 megahertz to 775 megahertz and between the frequencies from 799 megahertz to 805 megahertz.

(9) NTIA.—The term "NTIA" means the National Telecommunications and Information Administration.

TITLE I—NATIONWIDE INTEROPERABLE PUBLIC SAFETY BROADBAND NETWORK

SEC. 101. ESTABLISHMENT OF NETWORK.

(a) IN GENERAL.—The Commission shall take all actions necessary to ensure the deployment of a nationwide public safety interoperable broadband network in the 700 MHz band, including—

(1) developing and implementing nationwide technical and operational requirements for the network;

(2) adopting any rules necessary to achieve interoperability in the network;

(3) adopting user authentication and encryption requirements for the network.
SEC. 102. REALLOCATION OF D BLOCK TO PUBLIC SAFETY.

(a) REALLOCATION OF D BLOCK.—

(1) IN GENERAL.—The Commission shall re-allocate the 700 MHz D block spectrum for use by public safety entities in accordance with the provisions of this Act.

(2) SPECTRUM ALLOCATION.—Section 337(a) of the Communications Act of 1934 (47 U.S.C. 337(a)) is amended—

(A) by striking “24” in paragraph (1) and inserting “34”; and

(B) by striking “36” in paragraph (2) and inserting “26”.

(b) INTEGRATION WITH EXISTING PUBLIC SAFETY BROADBAND SPECTRUM.—The Commission shall—

(1) determine the licensing for the 700 MHz D block spectrum reallocated under section 337 of the Communications Act of 1934 (47 U.S.C. 337), as amended by subsection (a);

(2) determine how best to integrate the 700 MHz D block spectrum reallocated with the existing public safety spectrum; and

(3) determine whether the 20 megahertz of public safety broadband spectrum should be licensed on a primary, preemptible basis; or state- wide basis, or some combination thereof, in accordance with the public interest.

SEC. 103. FLEXIBLE USE OF NARROWBAND SPECTRUM.

The Commission shall allow the narrowband spectrum to be used in a flexible manner, including usage for public safety broadband applications, subject to such technical and interference protection measures as the Commission may require.

SEC. 104. SECONDARY USE OF PUBLIC SAFETY SPECTRUM.

(a) IN GENERAL.—Notwithstanding section 337 of the Communications Act of 1934 (47 U.S.C. 337), the Commission may authorize any public safety licensee or licensees to allow access to spectrum licensed to such licen- see or licensees to non-public safety govern- mental users, commercial users, utilities, including organizations providing or oper- ating critical infrastructure, including elec- tric, gas, and water utilities, and other Fed- eral agencies and departments.

(b) LIMITATIONS AND CONDITIONS.—The Commission shall—

(1) authorize the provision of access to such spectrum only on a secondary basis;

(2) require access agreements to be in writing and to be submitted to the Commission for review and approval;

(3) require that the public safety entity re- tain the right to use any such spectrum on a primary, preemptible basis;

(4) consider whether it is in the public in- terest to require multiple secondary leases per licensee;

(5) require that all funds received from such secondary access pursuant to such writ- ten agreements be reinvested in the public safety interoperable broadband network by using such funds only for constructing, maintaining, improving, or purchasing equipment or for the acquisition of such network, by deposit into the Mainte- nance and Operation Fund established by section 201 or otherwise.

SEC. 105. INTEROPERABILITY.

(a) IN GENERAL.—The Commission shall en- sure that the nationwide public safety broadband network is fully interoperable on a nationwide basis.

(b) TECHNICAL OPERATIONAL RULES.—

(1) INSURING INTEROPERABILITY.—The Com- mission shall establish technical and oper- ational rules to ensure nationwide interoper- ability, including rules that—

(A) establish requirements for nationwide roaming ability among any licensee, licensees, lessee, lessees, and other users; and

(B) provide that the State public safety broadband public safety networks, including requirements for protecting and monitoring the network against cyber-attack;

(c) WILL PROMOTE COMPETITION.—The Commission will promote competition in the device market for public safety communications by requiring devices for use on a public safety network to be—

(i) built to open standards;

(ii) capable of being used by any user and across all public safety systems; and

(iii) backward compatible with existing second and third generation commercial net- works;

(d) AUTHORIZE PUBLIC SAFETY ENTEITIES TO EXPLORE PARTNERSHIPS WITH OTHER PUBLIC OR PRIVATE ENTITIES.—The Commission shall—

(1) make available to the public safety entity the rights to use any such spectrum on a primary, preemptible basis;

(2) establish requirements for nationwide public safety broadband network construction and interoperability; and

(3) require any licensees or licensees to file regular reports on their plans to ensure the status and deployment of existing public safety broadband and narrowband sys- tems.

(2) FACTORS TO BE CONSIDERED.—In carrying out paragraph (1), the Commission shall, at a minimum, consider—

(A) the extent to which particular technol- ogies and user equipment are, or are likely to be, available in the commercial mar- ketplace;

(B) the availability of necessary technol- ogies and equipment on reasonable and non-discriminatory licensing terms; and

(C) the ability of particular technologies and equipment—

(i) to evolve with technological develop- ments in the commercial marketplace; and

(ii) to accommodate prioritization for pub- lic safety transmissions.

(e) REQUIREMENTS.—The Commission shall establish rules requiring—

(1) to be issued on a Statewide or multi- State basis and to be coordinated with the appropriate State chief executive or the executive’s designee;

(2) to demonstrate that the State has a plan for interoperability, with provision for both urban and rural build out; and

(f) REQUIREMENTS.—The Commission shall—

(1) issue a nationwide interoperability standard that includes—

(i) an interoperability framework for the nationwide public safety broadband network; and

(2) require the term of any contract under the process to be reasonable and, in any event, for less than the term of the under- lying license.

(g) MOPP.—The Commission may encour- age the use of the requests-for-proposal model or form developed by the Government Accountability Office under section 207 of this Act.

(h) RURAL BUILD OUT REQUIREMENTS.—The Commission shall—

(1) establish rural build out targets for the public safety broadband network, including targets for States or smaller areas;

(2) require contracts awarded through the request-for-proposals process in connection with the network to include deployment phases with substantial rural coverage mile- stones as part of each phase where appro- priate; and

(3) in collaboration with the Assistant Sec- retary, make funding for each build out phase after the first contingent on meeting build out targets for the preceding phase to the extent feasible.

SEC. 106. COMMERCIAL NETWORK ROAMING AND PRIORITY ACCESS.

The Commission may adopt rules, if neces- sary in the public interest, to improve the ability of public safety networks to roam onto commercial networks and to gain pri- ority access to commercial networks in an emergency if—

(1) the public safety entity equipment is technically compatible with the commercial network;

(2) the commercial network is reasonably compensated; and

(3) it is consistent with the public interest.

SEC. 107. PUBLIC SAFETY ADVISORY BOARD.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Commission shall establish a public safety advisory board to advise the Commission on—

(1) carrying out its duties under section 101; and

(2) the implementation of improvements to the public safety interoperable broadband network under that section.

(b) COMPOSITION.—The Commission shall determine the composition of the advisory board, which shall include, at a minimum, representatives from each of the following:

(1) State, local, and tribal governments.

(2) Public safety organizations.

(3) Providers of commercial mobile service.

(4) Manufacturers of communications equipment.

(5) Manufacturers.—The Commission shall con- sult with the advisory board on any study or report on public safety spectrum.

(d) FACAP INAPPLICABLE.—The Federal Ad- visory Committee Act (5 U.S.C. App.) shall not apply to the advisory board.

(e) TERMINATION.—The advisory board shall terminate 10 years after the date of enact- ment of this Act.

TITLE II—FUNDING

SEC. 201. ESTABLISHMENT OF FUNDS.

(a) IN GENERAL.—
SEC. 203. PUBLIC SAFETY INTEROPERABLE BROADBAND MAINTENANCE AND OPERATION.

(a) MAINTENANCE AND OPERATION REIMBURSEMENT PROGRAM.—The Commission shall administer a program through which the Assistant Secretary shall take such action as is necessary to establish a grant program to assist public safety entities to establish a nationwide public safety interoperable broadband network in the 700 MHz band.

(b) PROJECTS.—Grants may be made under this section to the extent that the program requirements including the following:

(1) Demonstrated compliance with applicable Commission request-for-proposal and license terms and service rules, including interoperability and technical rules, construction requirements, and secondary use rules.

(2) Defining entities that are eligible to receive a grant under this section.

(3) Defining eligible costs for purposes of subsection (c)(1).

(4) Determining the scope of network infrastructure eligible for grant funding under this section.

(c) TRANSFER OF FUNDS TO THE TREASURY.—The Assistant Secretary, in consultation with the Commission, shall transfer to the Treasury of the United States a fund consisting of such sums as may be necessary, but not to exceed $2,000,000,000, to implement section 203.

(d) AUTHORIZATION OF APPROPRIATIONS.—(1) CONSTRUCTION FUND.—There are authorized to be appropriated to the Commission to carry out the Construction Fund established under this section such sums as may be necessary, but not to exceed $2,500,000,000, to carry out the Construction Fund established under this section for the following:

(A) Demonstrated compliance with applicable Commission request-for-proposal and license terms and service rules, including interoperability and technical rules, construction requirements, and secondary use rules.

(B) Defining entities that are eligible to receive a grant under this section.

(C) Defining eligible costs for purposes of subsection (c)(1).

(D) Determining the scope of network infrastructure eligible for grant funding under this section.

(2) PROCEEDS.—The proceeds (including deposits and interest earnings) from the auction shall be deposited into the Construction Fund.

(3) MAINTENANCE AND OPERATION FUND.—There are authorized to be appropriated to the Commission to carry out the Maintenance and Operation Fund established under this section such sums as may be necessary, but not to exceed $5,500,000,000, to carry out the Maintenance and Operation Fund established under this section.

(4) AUTHORIZATION OF APPROPRIATIONS.—(A) IN GENERAL.—There are authorized to be appropriated to the Commission to carry out the Maintenance and Operation Fund established under this section such sums as may be necessary, but not to exceed $5,500,000,000, to carry out the Maintenance and Operation Fund established under this section.

(B) PROCEEDS.—The proceeds (including deposits and interest earnings) from the auction shall be deposited into the Maintenance and Operation Fund.

SEC. 204. AUCTIO NON OF SPECTRUM.

(a) IN GENERAL.—(1) IDENTIFICATION OF SPECTRUM.—Not later than 1 year after the date of enactment of this Act, the Assistant Secretary shall identify, at a minimum, 25 megahertz of contiguous spectrum at frequencies located between 1675 megahertz and 1710 megahertz, inclusive, to be made available for immediate reallocation.

(b) AUCTION.—(1) IDENTIFICATION OF SPECTRUM.—Not later than January 31, 2014, the Commission shall conduct the auction of the licenses, by commencing the bidding for the following:

(A) The spectrum between the frequencies of 2155 megahertz and 2180 megahertz, inclusive.

(B) The spectrum identified pursuant to paragraph (1).

(2) PROCEEDS.—(A) The proceeds (including deposits and up front payments from successful bidders) from the auction shall be deposited to the Construction Fund established under this Act.

(B) INCENTIVE SPECTRUM AUCTION AUTHORITY.—(1) IN GENERAL.—(A) Paragraph (b) of section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended—

(2) SEC. 206. REPORT ON EFFICIENT USE OF PUBLIC SAFETY SPECTRUM.

Not later than 5 years after the date of enactment of this Act and every 5 years thereafter, the Commission shall conduct a study and report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce on the spectrum held by the public safety entities. In the report the Commission shall—

(1) examine how much spectrum is being used;

(2) provide a recommendation for whether more spectrum needs to be made available to meet the needs of public safety entities; and

(3) assess the opportunity for return of any spectrum to the Commission for auction to commercial providers to provide revenue to the Treasury of the United States.

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The Delta Protection Commission, created by California law and responsible to the citizens of the Delta and California, will manage the Heritage Area. It will ensure an open and public process, working with all levels of federal, state, and local government, tribes, local stakeholders, private property owners as it develops and implements the management plan for the Heritage Area. The goal is to conserve and protect the Delta, its communities, its resources, and history. It is also important to understand what this legislation will not do. It will not affect water rights. It will not affect water contracts. It will not affect private property.

Nothing in this bill gives any governmental agency any more regulatory power than it already has, nor does it take away regulatory power from agencies that have it. In short, this bill does not affect water rights or water contracts, nor does it impose any additional responsibilities on local government or residents. Instead, it authorizes Federal assistance to a local process already required by State law that will elevate the Delta, providing a means to conserve and protect its valued communities, resources, and history.

The Sacramento-San Joaquin Delta is the largest estuary on the West Coast. It is the most extensive inland delta in the world, and a unique national treasure. Today, it is a labyrinth of sloughs, wetlands, and deepwater channels that connect the waters of the high Sierra to the Pacific Ocean through the San Francisco Bay. Its approximately 60 islands are protected by 1,100 miles of levees, and are home to 3,650,000 residents, including 2,500 families. The Delta and its farmers produce some of the highest quality specialty crops in the United States.

The Delta offers recreational opportunities to the two million Californians who live near it. It is a prime location for boating, fishing, hunting, visiting historic sites, and viewing wildlife. It provides habitat for more than 750 species of plants and wildlife. These include sand hill cranes that migrate to the Delta wetland from places as far away as Siberia. The Delta also provides habitat for 55 species of fish, including Chinook salmon—some as large as 60 pounds—that return each year to travel through the Delta to spawn in the tributaries. These same rivers also channel fresh water to the Federal and State-owned pumps in the South Delta that provide water to 23 million Californians and 3 million acres of irrigated agricultural land elsewhere in the state.

Before the Delta was reclaimed for farmland in the 19th Century, the Delta flooded regularly with snow melt each spring, and provided the rich environment that, by 1492, supported the longest settlement of Native Americans in North America. The Delta was the gateway to the gold fields in 1849, after which Chinese workers built hundreds of miles of levees throughout the waterways of the Delta to make its rich peat soils available for farming and to control flooding.

Japanese, Italians, German, Portuguese, Dutch, Greeks, South Asians, and other immigrants began the farming legacy, and developed technologies specifically adapted to the unique environment, including the Caterpillar Tractor, which later contributed to agriculture and transportation internationally.

Delta communities created a river culture befitting their dependence on water transport, a culture which has attracted the attention of authors from Mark Twain and Jack London to Joan Didion.

The Delta is in crisis due to many factors, including invasive species, urban and agricultural run-off, wastewater discharges, channelization, dredging, water export operations, and other stressors.

Many of the islands of the Delta are between 10 and 20 feet below sea level, and the levee system is presently inadequate to provide reliable flood protection for historic communities, significant habitats, agricultural enterprises, water resources, transportation and other infrastructure.

Existing levees have not been engineered to withstand earthquakes. Should levees fail for any reason, a rush of seawater into the interior of the Delta could damage the already fragile ecosystem, contaminate drinking water for many Californians, flood agricultural land, inundate towns, and damage roads, power lines, and water project infrastructure.

The State of California has been working for decades on a resolution to the water supply and ecosystem crisis in the State, and has a long history of partnerships with Federal agencies, working together to resolve challenges to the Delta’s historic communities, ecosystem and the water it supplies so many Californians.

The Delta Protection Commission, established under state law, has been tasked by the California State Legislature with providing a forum for Delta residents to engage in decisions regarding actions to recognize and enhance the unique cultural, recreational, agricultural, cultural resources, infrastructure and local communities and to serve as the facilitating agency for the implementation of a National Heritage Area in the Delta.

This legislation will complement the broadly supported State Water Legislation of 2009, which called for a Heritage designation for the Delta.

This legislation authorizes the creation of the Delta Heritage Area and federal assistance to the Delta Protection Commission in implementing the Area. This legislation is just a small part of the commitment the Federal government must make to the Delta. I look forward to continuing to work with my colleagues at every level of...
government to restore and sustain the ecosystem in the Delta, to provide for reliable water supply in the State of California, to recover the native species of the Delta, protect communities in the Delta from flood risk, ensure economic sustainability in the Delta, improve water quality in the Delta, and sustain the unique cultural, historical, recreational, agricultural and economic values of the Delta.

The National Heritage Area designation for the Sacramento-San Joaquin Delta will help local governments develop and implement a plan for a sustainable future by providing Federal recognition, technical assistance and small amounts of funding to a community-based process already underway.

Through the Delta Heritage Area, local communities and citizens will partner with Federal, State and local governments to collaboratively work to promote conservation, community revitalization and economic development projects.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Sacramento-San Joaquin Delta National Heritage Area Establishment Act."

**SEC. 2. DEFINITIONS.**

In this Act:

(1) **HERITAGE AREA.**—The term "Heritage Area" means the Sacramento-San Joaquin Delta Heritage Area established by section 3(a).

(2) **HERITAGE AREA MANAGEMENT PLAN.**—The term "management plan" means the plan developed and adopted by the management entity under this Act.

(3) **MANAGEMENT ENTITY.**—The term "management entity" means the management entity for the Heritage Area designated by section 3(d).

(4) **SECRETARY.**—The term "Secretary" means the Secretary of the Interior.

(5) **STATE.**—The term "State" means the State of California.

**SEC. 3. SACRAMENTO-SAN JOAQUIN DELTA HERITAGE AREA.**

(a) **ESTABLISHMENT.**—There is established the "Sacramento-San Joaquin Delta Heritage Area" in the State.

(b) **BOUNDARIES.**—The boundaries of the Heritage Area shall be in the counties of Contra Costa, Sacramento, San Joaquin, Solano, Stanislaus, and Tulare counties of the State of California, as generally depicted on the map entitled "Sacramento-San Joaquin Delta National Heritage Area Proposed Boundary," numbered 272/708/2008, dated September 2008.

(c) **AVAILABILITY OF MAP.**—The map described in subsection (b) shall be on file and available for public inspection in the appropriate offices of the National Park Service and the Delta Protection Commission.

(d) **MANAGEMENT ENTITY.**—The management entity for the Heritage Area shall be the Delta Protection Commission established by section 29735 of the California Public Resources Code.

(e) **AGENCY MANAGEMENT PLAN.**

(1) **AUTHORITIES.**—For purposes of carrying out the Heritage Area management plan, the Secretary, acting through the management entity, may use amounts made available under this Act to—

(A) make grants to the State or a political subdivision of the State, nonprofit organizations, and other persons;

(B) enter into cooperative agreements with, or provide technical assistance to, the State or a political subdivision of the State, nonprofit organizations, and other interested parties;

(C) hire and compensate staff, which shall include individuals with expertise in natural, cultural, and historical resources protection, and heritage programming;

(D) obtain services from any source including any that are provided under any other Federal law or program;

(E) contract for goods or services; and

(F) undertake to be a catalyst for any other activity that furthers the Heritage Area and is consistent with the approved Heritage Area management plan.

(2) **DUTIES.**—The management entity shall—

(A) in accordance with subsection (f), prepare and submit a Heritage Area management plan to the Secretary;

(B) assist units of local government, regional planning organizations, and nonprofit organizations in carrying out the approved Heritage Area management plan by—

(i) carrying out programs and projects that recognize, protect, and enhance important resources and values in the Heritage Area;

(ii) establishing and maintaining interpretive exhibits and programs in the Heritage Area;

(iii) developing recreational and educational opportunities in the Heritage Area;

(iv) increasing public awareness of, and appreciation for, natural, historical, scenic, and cultural resources in the Heritage Area;

(v) protecting and restoring historic sites and buildings in the Heritage Area that are consistent with Heritage Area themes;

(vi) ensuring that clear, consistent, and appropriate signs identifying points of public access, and sites of interest are posted throughout the Heritage Area; and

(vii) promoting a wide range of partnerships among governments, organizations, and individuals to further the Heritage Area;

(C) consider the interests of diverse units of government, organizations, and individuals in the Heritage Area in the preparation and implementation of the Heritage Area management plan;

(D) conduct meetings open to the public at least semiannually regarding the development and implementation of the Heritage Area management plan;

(E) for any year that Federal funds have been received under this Act—

(i) submit an annual report to the Secretary that describes the activities, expenses, and income of the management entity (including grants to any other entities during the year that the report is made);

(ii) make available to the Secretary for audit all records relating to the expenditure of the funds and any matching funds;

(iii) require, with respect to all agreements authorizing expenditure of Federal funds by other organizations, that the organizations receiving the funds make available to the Secretary for audit all records concerning the expenditure of the funds; and

(F) encourage by appropriate means economic viability that is consistent with the Heritage Area;

(G) **PRICING ON THE ACQUISITION OF REAL PROPERTY.**—The management entity shall not use Federal funds made available under this Act to acquire real property or any interest in real property;

(H) **COST-SHARING REQUIREMENT.**—The Federal share of the cost of any activity carried out using any assistance made available under this Act shall be 50 percent.

(3) **HERITAGE AREA MANAGEMENT PLAN.**

(1) **IN GENERAL.**—Not later than 3 years after the date of enactment of this Act, the management entity shall submit to the Secretary for approval a proposed Heritage Area management plan.

(2) **REQUIREMENTS.**—The Heritage Area management plan shall—

(A) incorporate an integrated and cooperative approach to agricultural resources and activities, flood protection facilities, and other public infrastructure;

(B) emphasize the importance of the resources described in subparagraph (A);

(C) take into consideration State and local plans;

(D) include—

(i) a inventory of—

(I) the resources located in the core area described in subsection (b); and

(ii) any other property in the core area that

(aa) is related to the themes of the Heritage Area; and

(bb) should be preserved, restored, managed, or maintained because of the significance of the property;

(C) comprehensive policies, strategies, and recommendations for conservation, funding, management, and development of the Heritage Area;

(E) a description of actions that governments, private organizations, and individuals have agreed to take to protect the natural, historical, and cultural resources of the Heritage Area;

(F) a program of implementation for the Heritage Area management plan by the management entity that includes a description of

(i) actions to facilitate ongoing collaboration among partners to promote plans for resource protection, restoration, and construction; and

(ii) specific commitments for implementation that have been made by the management entity or any government, organization, or individual for the first 5 years of operation;

(G) analysis and recommendations for means by which local, State, and Federal programs, including the role of the National Park Service in the Heritage Area, may best be coordinated to carry out this Act; and

(H) an interpretive plan for the Heritage Area;

(J) **RECOMMEND POLICIES AND STRATEGIES FOR RESOURCE MANAGEMENT.**

(1) **PARTICIPATION BY APPROPRIATE FEDERAL AGENCIES.**—The management entity shall—

(A) ensure participation by appropriate Federal, State, tribal, and local agencies, including the Delta Stewardship Council, special districts, natural and historical resource protectors, and agricultural organizations, educational institutions, businesses, recreational organizations, community residents, and private property owners; and

(B) recommend policies and strategies for resource management that consider and detail the application of appropriate land and water management techniques, including the development of intergovernmental and interagency cooperative agreements to protect the natural, historical, cultural, educational, scenic, and recreational resources of the Heritage Area;

(3) **RESTRICTIONS.**—The Heritage Area management plan submitted under this sub-section shall—

(A) ensure participation by appropriate Federal, State, tribal, and local agencies, including the Delta Stewardship Council, special districts, natural and historical resource protectors, and agricultural organizations, educational institutions, businesses, recreational organizations, community residents, and private property owners; and

(B) receive certification from the Delta Protection Commission that the Delta Stewardship Council has reviewed the Heritage Area management plan in consistency with the plan adopted by the Delta Stewardship Council pursuant to State law.
(4) DEADLINE.—If a proposed Heritage Area management plan is not submitted to the Secretary by the date that is 3 years after the date of enactment of this Act, the management entity shall be ineligible to receive additional funding under this Act until the date that the Secretary receives and approves the Heritage Area management plan.

(5) EFFECT OF WITHDRAWAL OF HERITAGE AREA MANAGEMENT PLAN.—

(A) IN GENERAL.—Not later than 180 days after the date of receipt of the Heritage Area management plan under paragraph (4), the Secretary, in consultation with the State, shall approve or disapprove the Heritage Area management plan.

(B) CRITERIA FOR APPROVAL.—In determining whether to approve the Heritage Area management plan, the Secretary shall consider—

(i) the management entity is representative of the diverse interests of the Heritage Area, including governments, natural and historic resource protection organizations, educational institutions, businesses, and recreational organizations;

(ii) the management entity has afforded adequate opportunity, including public hearings, for public and governmental involvement in the preparation of the Heritage Area management plan; and

(iii) the management entity has provided technical or financial assistance for the development and interpretation strategies contained in the Heritage Area management plan, if implemented, would adequately protect the natural, historical and cultural resources of the Heritage Area.

(C) ACTION FOLLOWING DISAPPROVAL.—If the Secretary disapproves the Heritage Area management plan under subparagraph (A), the Secretary shall—

(i) advise the management entity in writing of the reasons for the disapproval;

(ii) make recommendations for revisions to the Heritage Area management plan; and

(iii) not later than 180 days after the receipt of any proposed revision of the Heritage Area management plan from the management entity, approve or disapprove the proposed revision.

(D) AMENDMENTS.—

(i) IN GENERAL.—The Secretary shall approve or disapprove each amendment to the Heritage Area management plan that the Secretary, in consultation with the State, approves or disapproves, and the Secretary shall be not more than 50 percent of the total cost of any activity under this Act.

(ii) USE OF FUNDS.—The management entity shall not use Federal funds authorized by this Act to carry out any amendments to the Heritage Area management plan unless the Secretary approves the amendments.

(iii) RELATIONSHIP TO OTHER FEDERAL AGENCIES.—

(A) IN GENERAL.—Nothing in this Act affects the authority of a Federal agency to provide technical or financial assistance under any other law.

(B) CONSULTATION AND COORDINATION.—The head of a Federal agency may, after consultation with the Secretary, in consultation with the State, and the management entity to the Heritage Area, shall—

(i) advise the management entity in writing of the reasons for the disapproval of the Heritage Area management plan;

(ii) make recommendations for revisions to the Heritage Area management plan; and

(iii) not later than 180 days after the receipt of any proposed revision of the Heritage Area management plan from the management entity, approve or disapprove the proposed revision.

(E) COST-SHARING REQUIREMENT.—The Federal share of the total cost of any activity under this Act shall not be more than $1,000,000 may be made available for any fiscal year.

(F) PREVENTS ANY LIABILITY, OR AFFECTS ANY LIABILITY, UNDER ANY OTHER LAW, OF ANY PROPERTY owner with respect to any person injured on the private property.

(G) Diminishes the authority of the State to manage fish and wildlife, including the regulation of fishing and hunting within the Heritage Area; or

(H) EXTINGUISHES THE HERITAGE AREA.

(5) APPROVAL OR DISAPPROVAL OF HERITAGE AREA MANAGEMENT PLAN.—

(A) IN GENERAL.—The Secretary shall approve or disapprove the Heritage Area management plan under paragraph (4) not later than 1 year after the date that the Secretary receives and approves the Heritage Area management plan.

(B) CRITERIA FOR APPROVAL.—In determining whether to approve the Heritage Area management plan, the Secretary shall—

(i) accomplish the purposes of this Act for the Heritage Area and the State;

(ii) achieve the goals and objectives of the approved Heritage Area management plan;

(iii) determine the leverage and impact of the investments and the critical components for sustainability of the Heritage Area;

(iv) determine the right to refrain from participating in any project, plan, program, or activity conducted with Federal funds; and

(v) review the management structure, partnerships, relationships, and funding of the Heritage Area for purposes of identifying the authority similar to that of other Federal entities.

(C) REQUIREMENT.—In determining whether to approve the Heritage Area management plan, the Secretary shall—

(i) assess the progress of the management entity with respect to—

(A) evaluating the accomplishments of the Heritage Area; and

(B) preparing a report in accordance with subparagraph (B).

(ii) determine the right to refrain from participating in any project, plan, program, or activity conducted with Federal funds.

(iii) determine the critical components for sustainability of the Heritage Area; and

(iv) determine an appropriate time period necessary to achieve the recommended reduction or elimination.

(D) SUBMISSION TO CONGRESS.—On completion of the report, the Secretary shall submit the report to—

(i) the Committee on Energy and Natural Resources of the Senate; and

(ii) the Committee on Natural Resources of the House of Representatives.

(E) EFFECT OF DESIGNATION.—Nothing in this Act—

(i) includes the management entity from using Federal funds made available under other laws for the purposes for which those funds were authorized; or

(ii) affects any water rights or contracts.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.—

(A) IN GENERAL.—There is authorized to be appropriated $10,000,000 for each of the fiscal years 2012, 2013, and 2014 for the purposes of this Act.

(B) COST-SHARING REQUIREMENT.—The Federal share of the total cost of any activity under this Act shall not be more than 50 percent.

(C) NON-FEDERAL SHARE.—The non-Federal share of the total cost of any activity under this Act may be in the form of in-kind contributions of goods or services.

SEC. 5. TERMINATION OF AUTHORITY.—

(A) IN GENERAL.—If a proposed Heritage Area management plan has not been submitted to the Secretary by the date that is 5 years after the date of enactment of this Act, the Heritage Area designation shall be rescinded.

(B) FUNDING AUTHORITY.—The authority of the Secretary to provide assistance under this Act shall be terminated 15 years after the date of enactment of this Act.

By Mr. FRANKEN: S. 31. A bill to amend part D of title XVIII of the Social Security Act to authorize the Secretary of Health and Human Services to negotiate for lower prices for Medicare prescription drugs; and for other purposes.

Mr. FRANKEN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 31

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Prescription Drug and Health Improvement Act of 2011”.

SEC. 2. NEGOTIATING FAIR PRICES FOR MEDICARE PRESCRIPTION DRUGS.

(A) NEGOTIATING FAIR PRICES.—

(1) IN GENERAL.—Section 1860D–11 of the Social Security Act (42 U.S.C. 1395w–11) is amended by striking subsection (i) (relating to noninterference) and by inserting the following:

“(i) AUTHORITY TO NEGOTIATE PRICES WITH MANUFACTURERS.—In order to ensure that beneficiaries enrolled in prescription drug plans and MA–PD plans pay the lowest possible price, the Secretary shall have authority similar to that of other Federal entities that purchase prescription drugs in bulk to negotiate contracts with manufacturers of covered Part D drugs, consistent with the requirements and in furtherance of the goals of maintaining quality care and containing costs under this part.”;

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(B) BIENNUAL REPORTS TO CONGRESS.—Not later than 1 year after the date of the enactment of this Act, and every 6 months thereafter, the Secretary shall submit to Congress a report on the negotiations conducted by the Secretary.
under section 1860D-11(i) of the Social Security Act (42 U.S.C. 1395w–111(i)), as amended by subsection (a), including a description of how such negotiations are achieving lower prices for selected Part D drugs (as defined in section 1860D-2(e) of the Social Security Act (42 U.S.C. 1395w–102(e))) for Medicare beneficiaries.

By Mr. LIEBERMAN (for himself, Mr. SANDERS, Mr. REED, Mrs. BOXER, Mr. UDALL of Colorado, Mr. HARKIN, Mr. BENNET, Mr. KOCH, Mr. UDALL of New Mexico, Mr. CARDIN, Ms. CANTWELL, Mrs. MURRAY, Mr. WHITEHOUSE, Mr. LEAHY, Mrs. FEINSTEIN, Ms. KLOBUCHAR, Mr. KERRY, Mr. DURBIN, Mr. WYDEN, and Mr. LUTENBERG):

S. 33. A bill to designate a portion of the Arctic National Wildlife Refuge as wilderness; to the Committee on Environment and Public Works.

Mr. LIEBERMAN. Mr. President, today, I introduced legislation to protect the coastal plains region of the Arctic National Wildlife Refuge from oil and gas exploration and drilling. Every Congress since the 101st, I have either introduced or been an original cosponsor of legislation to protect the Refuge, making tomorrow the twelfth time since 1989 that I will mark my unwavering support for reaffirming the original intent of the Refuge: to provide for Alaska's wildlife by designating 1.5 million acres of the Refuge as Wilderness to be included in the National Wilderness Preservation System.

I have long believed we have a responsibility to future generations to preserve the Arctic National Wildlife Refuge, and I have fought to protect it for as long as I have been in the Senate. The fact is, we do not have to choose between conservation and exploration. We have a commitment to our energy future; we can do both simultaneously while moving toward a sustainable and diverse national energy policy.

The Arctic Refuge is home to 250 species of birds and, on average, there would very likely harm its abundant populations of polar bears, caribou, musk oxen, and snow geese. Beyond that, the amount of commercially recoverable oil in the Refuge would satisfy only a very small percentage of our Nation's need at any given time and would have no appreciable long-term impact on gasoline prices. The permanent environmental price we would pay for ravaging the Refuge to drain those limited resources is simply too high.

I look forward to working with my colleagues to pass this important legislation.

By Mr. WHITEHOUSE (for himself, Mr. LEAHY, Mr. SANDERS, Mrs. BOXER, Mr. DURBIN, Mr. BROWN of Ohio and Mr. HARKIN):

S. 45. A bill to amend the Internal Revenue Code of 1986 to provide for the taxation of income of controlled foreign corporations attributable for imported property; to the Committee on Finance.

Mr. WHITEHOUSE. Mr. President, from the Recovery Act to the Small Business Jobs Act, in the previous Congress we passed a number of substantial pieces of legislation to preserve, protect, and create American jobs. The Recovery Act provided between 2.7 and 3.7 million jobs, including 12,000 jobs in my home State of Rhode Island. This was vital in stemming the 700,000-per-month job loss rate we faced when the previous administration left office. Without the Recovery Act, and the other fiscal stimulus we passed over the past 2 years, the economy would have much worse.

While the Recovery Act protected our country from what would have been a far worse economic meltdown, the employment market is still weak and families are still hurting. Our national unemployment rate was 9.4 percent in December—an unacceptably high level. And it was higher still in harder hit States such as Rhode Island, where the unemployment rate in December. As we begin this new Congress, our No. 1 priority must remain job retention and creation.

The manufacturing industry has historically been the engine of growth for the American economy. The manufacturing economy has been especially important in the industrial Northeast, particularly in my State of Rhode Island. From Slater Mill in Pawtucket—one of the first water-powered textile mills in the Nation and the birthplace of the Industrial Revolution—to high-tech modern submarine production at Quonset Point, the manufacturing sector has always been central to Rhode Island's economy.

Unfortunately, as American companies have faced rising production costs and increased—and very often unfair—competition from foreign firms, U.S. manufacturing employment has plummeted. According to the Bureau of Labor Statistics, the number of manufacturing jobs declined by almost a third over the past three decades. As the nation's manufacturing sector has fallen, so has the U.S. economy. The manufacturing sector is only 1.5 percent of the American economy, yet it produces nearly 40 percent of our GDP. The American economy would not have the strength it does today without the manufacturing sector. The American economy is not what it was when we left our industrial age behind. We are a nation of services. We are high-tech. We are international. We are winners. The manufacturing sector is critical to our continued success.

Today I will introduce legislation that will remove one homegrown incentive that rewards companies for shipping jobs overseas. Under current law, an American company that manufactures goods in Rhode Island or Montana or Maine must pay Federal income tax on profits in the year the profits are earned. That is standard tax law. But if that same company moves its factory to another country, it is permitted to defer the payment of income taxes from that factory, thus allowing us to have a tax system that is more advantageous—for example, one in which the company has offsetting tax losses.

If an American company moves a plant offshore, it acquires this tax deferral for free. This makes no sense that our Tax Code allows companies to delay paying income taxes on profits when made through overseas subsidiaries but charges those profits in the year they are made at home. My bill will stop this tax break. It will define the profits earned on manufactured goods exported to the United States. To put it simply: Our tax system should not reward companies for eliminating American jobs.

The Offshoring Prevention Act is based on legislation Senator Byron Dorgan offered over the past two decades, again and again. We can all remember Senator Dorgan coming to this floor here with pictures of iconic American brands, such as Newton cookies, Radio Flyer red wagons, Fig Newton cookies, and Huffy bicycles, to highlight the fact that the production of these American classic products had moved to Mexico, to China, and elsewhere. On dozens, if not hundreds, of occasions, Senator Dorgan spoke passionately on this floor about the decline of American manufacturing. I am grateful to his leadership on this critical issue and for bringing our attention to an unfair tax advantage that rewards companies for moving manufacturing jobs overseas.

Last year, a version of Senator Dorgan's bill was included in the Creating American Jobs and Ending Offshoring Act. While a majority of this body—53 votes—voted to be on record in support of the bill, we were not able to overcome a filibuster to have a chance to consider and pass this legislation. I am sorry we were not able to pass the bill last year, and I will do my best to bring it up for a vote in this new Congress to combat companies that will move manufacturing jobs overseas.

Mr. President, keeping jobs in America and providing a level playing field for American manufacturing should
not be a Democratic or a Republican issue. We all serve here in the Senate to represent the interests of our constituents, and our constituents want us to keep these good-paying manufacturing jobs in America. I hope that all of our colleagues will join me in passing the Offshoring Prevention Act to do just that.

By Mr. INOUYE (for himself, Mr. ROCKEFELLER, Mr. KERRY, Ms. SNOWE, and Mr. NELSON of Florida):

S. 46. A bill to reauthorize the Coral Reef Conservation Act of 2000, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. INOUYE. Mr. President, I am pleased to introduce the Coral Reef Conservation Amendments Act, which I also introduced in the 111th Congress.

This critical bill reauthorizes and strengthens the Coral Reef Conservation Act of 2000, a program that I was pleased to originally sponsor in the 106th Congress establishing the Coral Reef Conservation Program at the National Oceanic and Atmospheric Administration, NOAA.

Coral reefs are among the oldest and most economically and biologically important ecosystems in the world. They provide habitat for more than one million diverse aquatic species, a natural barrier for protection from coastal storms and erosion, and are a potential source of treatment for many of the world’s diseases. From a commerce perspective, reef-supported tourism is a $30 billion industry worldwide, and the commercial value of United States fisheries from coral reefs is more than $100 million.

However, our coral reef ecosystems face many threats including pollution, climate change and coral bleaching, and overfishing to name a few. Coral reefs cover only one-tenth of one percent of the ocean floor, yet provide habitat to more than twenty-five percent of all marine species.

The original Coral Reef Conservation Act of 2000 recognized the need to preserve, sustain and restore the condition of these valuable coral reef ecosystems. The Coral Reef Conservation Amendments Act of 2011 would strengthen NOAA’s ability to comprehensively address threats to coral reefs and empower the agency with tools to ensure that damage to our coral reef ecosystems is prevented or effectively mitigated. It also establishes consistent practices for maintaining data, products, and information, and promotes the widespread availability and dissemination of that environmental information.

Finally, the bill allows the Secretary to further develop partnerships with foreign governments and international organizations—partnerships that are critical not only to the understanding of our coral reef ecosystems, but also to their protection and restoration.

Thank you and I would urge you to support this important legislation to continue supporting NOAA’s leadership role in coral reef conservation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

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

SECTION 1. SHORT TITLE. TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Coral Reef Conservation Amendments Act of 2011”.

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

Sec. 1. Short title; table of contents.
Sec. 3. Purposes.
Sec. 4. National coral reef action strategy.
Sec. 5. Coral reef conservation program.
Sec. 6. Coral reef conservation fund.
Sec. 7. Community-based planning grants.
Sec. 8. Federal and regional authorization.
Sec. 9. National program.
Sec. 10. Study of trade in corals.
Sec. 11. Implementation of coral reef conservation activities.
Sec. 12. Community-based planning grants.
Sec. 13. Vessel grounding inventory.
Sec. 14. Prohibited activities.
Sec. 15. Destruction of coral reefs.
Sec. 16. Enforcement.
Sec. 17. Permits.
Sec. 18. Regional, State, and Territorial coordination.
Sec. 19. Regulations.
Sec. 20. Effectiveness and assessment report.
Sec. 21. Authorization of appropriations.
Sec. 22. Judicial review.
Sec. 23. Definitions.

SEC. 2. AMENDMENT OF CORAL REEF CONSERVATION ACT OF 2000.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of the Coral Reef Conservation Act of 2000 (16 U.S.C. 6401 et seq.).

SEC. 3. PURPOSES.

Section 202 (16 U.S.C. 6601) is amended to read as follows:

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"SEC. 202. PURPOSES."

The purpose of this Act are—

(1) to preserve, sustain, and restore the condition of coral reef ecosystems;

(2) to promote the wise management and sustainable use of coral reef ecosystems to benefit local communities, the Nation, and the world;

(3) to develop sound scientific information on the condition of coral reef systems and the threats to such ecosystems;

(4) to assist in the preservation of coral reef ecosystems by supporting conservation programs, including projects that involve affected local communities and nongovernmental organizations;

(5) to provide financial resources for those programs which promote the wise management and sustainable use of coral reef ecosystems, through strategic investments in coral reef conservation and restoration projects; and

(6) to establish a formal mechanism for collecting and allocating monetary donations from the private sector to be used for coral reef conservation projects; and

(7) to provide mechanisms to prevent and minimize damage to coral reefs.

SEC. 4. NATIONAL CORAL REEF ACTION STRATEGY.

Section 203 (16 U.S.C. 6602) is amended to read as follows:

"(a) IN GENERAL.—Not later than 180 days after the date of the enactment of the Coral Reef Conservation Amendments Act of 2011, the Secretary shall submit to the Senate Commerce, Science, and Transportation and to the House of Representatives Committee on Natural Resources and publish in the Federal Register a national coral reef ecosystem action strategy, consistent with the purposes of this title. The Secretary shall periodically review and revise the strategy as necessary. In developing this national strategy, the Secretary may consult the Coral Reef Task Force established under Executive Order 13089 (June 11, 1996).

(b) GOALS AND OBJECTIVES.—The action strategy shall include a statement of goals and objectives as well as an implementation plan, including a description of the funds obligated each fiscal year to advance coral reef conservation. The action strategy and implementation plan shall include discussion of—

(1) coastal uses and management, including land-based sources of pollution;

(2) climate change;

(3) water and air quality;

(4) mapping and information management;

(5) research, monitoring, and assessment;

(6) international and regional issues;

(7) outreach and education;

(8) national priority areas identified by the Secretary to serve as a basis for regional and local strategies developed by the States or Federal agencies, including regional fish management councils; and

(9) conservation.

SEC. 5. CORAL REEF CONSERVATION PROGRAM.

(a) IN GENERAL.—Section 204 (16 U.S.C. 6605) is amended—

(1) by striking “Secretary, through the Administration” and in subsection (a) inserting “Secretary”; and

(2) by striking subsection (c) and inserting the following:

(c) ELIGIBILITY.—Any natural resource management authority of a State or other government authority with jurisdiction over coral reef ecosystems, or whose activities directly or indirectly affect coral reef ecosystems, or educational or nongovernmental institutions with demonstrated expertise in the conservation of coral reef ecosystems, may submit a coral reef conservation proposal to the Secretary under subsection (e).

(3) by striking “GEOGRAPHIC AND BIOLOGICAL” and in the heading for subsection (d) and inserting “PROJECT”;

(4) by striking paragraph (3) of subsection (d) and inserting the following:

(3) Remaining funds shall be awarded for—

(A) projects (with priority given to community-based local action strategies) that address emerging priorities or threats, including international and territorial priorities, or threats identified by the Secretary; and

(B) other appropriate projects, as determined by the Secretary, including monitoring and assessment, research, pollution reduction, education, and technical support;

(5) by striking subsection (g) and inserting the following:

(g) CRITERIA FOR APPROVAL.—The Secretary may not approve a project proposal under this section unless the project is consistent with the coral reef action strategy under section 203 and will enhance the conservation of coral reef ecosystems nationally or internationally by—

(1) implementing coral conservation programs which promote sustainable development, and ensure effective, long-term conservation of coral reef ecosystems and biodiversity;
"(2) addressing the conflicts arising from the use of environments near coral reef ecosystems or from the use of corals, species associated with coral reef ecosystems, and coral reef-related resources;"

"(3) enhancing compliance with laws that prohibit or regulate the taking of coral products or species associated with coral reef ecosystems, to include the use and management of coral reef ecosystems;"

"(4) developing sound scientific information on the condition of coral reef ecosystems or to such ecosystems and their biodiversity, including factors that cause coral disease, ocean acidification, and bleaching events;"

"(5) promoting and assisting the implementation of cooperative coral reef ecosystem conservation projects that involve affected local communities, nongovernmental organizations, or others in the private sector;"

"(6) increasing public knowledge and awareness of coral reef ecosystems and issues regarding their long-term conservation, including how they function to protect coastal communities;"

"(7) mapping, monitoring, and assessing the status and condition of coral reef ecosystems and biodiversity;"

"(8) developing and implementing cost-effective methods to restore degraded coral reef ecosystems;"

"(10) responding to, or taking action to help mitigate the effects of, coral disease, ocean acidification, and bleaching events;"

"(11) Activities designed to prevent or minimize damage to coral reef ecosystems, including the promotion of ecologically sound navigation and anchorage; or"

"(12) promoting and assisting entities to work with local communities, and all appropriate governmental and nongovernmental organizations, to support community-based planning and management initiatives for the protection of coral reef systems;"; and

"(b) by striking "coral reef" in subsection (j) and inserting "coral reef ecosystems".

(b) CONFORMING AMENDMENTS.—Subsections (b), (c), (d), (e), (f), (h), (i), and (j) of section 207 (16 U.S.C. 6403) are each amended by striking "the grant program" in each place it appears and inserting "Secretary".

SEC. 6. CORAL REEF CONSERVATION FUND.

Section 206 (16 U.S.C. 6404) is amended—

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

(a) FUND.—The Secretary may enter into agreements with nonprofit organizations promoting coral reef ecosystem conservation by authorizing such organizations to receive, hold, and administer funds received pursuant to this section. Such organizations shall invest, reinvest, and otherwise administer the funds and maintain such funds and any interest or revenues earned in a separate interest-bearing account (referred to in section 219(a) as the Fund) established by such organizations solely to support partnerships between the public and private sectors that extend, or renegotiate agreements with universities and research centers with national or regional coral reef research institutes to conduct ecological research and monitoring explicitly aimed at building capacity for more effective resource management. Pursuant to any such agreements these institutes shall—

"(1) collaborate directly with governmental resource management agencies, nongovernmental organizations, and other research organizations;"

"(2) build capacity within resource management agencies, educational research priorities, plan interdisciplinary research projects and make effective use of research results; and"

"(3) conduct public education and awareness programs for policy makers, resource managers, and the general public on coral reef ecosystems, best practices for coral reef and ecosystem management and conservation, their value, and threats to their sustainability;"

(c) USE OF OTHER AGENCIES’ RESOURCES.—For purposes related to the conservation, preservation, protection, restoration, or replacement of coral reefs or coral reef ecosystems and the enforcement of this title, the Secretary is authorized to use, with their consent and with or without reimbursement, the land, services, equipment, personnel, and facilities of any Department, agency, or instrumentality of the United States, or of any State, local government, tribal government, Territory or possession, or of any political subdivision thereof, or of any foreign government or international organization.

(d) AUTHORITY TO UTILIZE GRANT FUNDS.—

(1) Except as provided in paragraph (2), the Secretary may apply for, accept, and obligate research grant funding from any Federal source operating competitive grant programs where such funding furthers the purpose of this title.

(2) The Secretary may not apply for, accept, or obligate any grant funding under paragraph (1) for which the granting agency lacks authority to fund grants to Federal agencies, or for any purpose or subject to conditions that are prohibited by law or regulation.

(3) Appropriated funds may be used to satisfy a requirement to match grant funds with recipient agency funds, except that no grant may be accepted that requires a commitment in advance of any funds.

(4) Funds received from grants shall be deposited in the National Oceanic and Atmospheric Administration account for the purpose of awarding Federal grants to, and Federal agencies may accept transfers of funds from, Federal agencies, instrumentality laboratories, State and local governments, Indian tribes (as defined in section 4 of the Indian Self-Determination and Educational Assistance Act (25 U.S.C. 450(b)), organizations and associations representing Hawaiians, and Native Pacific Islanders, educational institutions, nonprofit organizations, commercial, public and private persons or entities, except that no more than 5 percent of funds appropriated to carry out this section may be transferred. The 5 percent limitation shall not apply to section 204 or section 210.".

SEC. 8. EMERGENCY ASSISTANCE.

Section 207 (former 16 U.S.C. 6405), as redesignated by section 7 of this Act, is amended to read as follows:

"SEC. 20. EMERGENCY ASSISTANCE.

"(a) IN GENERAL.—The Secretary may appropriate, conduct activities, including with local, State, regional, or international organizations and partners, as appropriate, to assist in preserving and protecting coral reef ecosystems, that are consistent with this title, the National Marine Sanctuaries Act, the Coastal Zone Management Act of 1972, the Magnuson-Stevens Fishery Conservation and Management Act, the Endangered Species Act of 1973, and the Marine Mammal Protection Act of 1972; and"

"(b) AUTHORIZED ACTIVITIES.—Activities authorized under subsection (a) include—

"(1) mapping, monitoring, assessment, restoration, socioeconomic and scientific research that benefit the understanding, sustainable use, biodiversity, and long-term conservation of coral reef ecosystems;"

"(2) enhancing public awareness, education, understanding, and appreciation of coral reef ecosystems;"

"(3) removing, and providing assistance to those removing, marine debris, and abandoned vessels from coral reef ecosystems to conserve living marine resources; and"

"(4) responding to incidents and events that threaten and damage coral reef ecosystems;"

"(5) conservation and management of coral reef ecosystems;"

"(6) centrally archiving, managing, and distributing data sets and providing coral reef ecosystem assessments and services to the general public, local, regional, or international programs and partners; and"

"(7) activities designed to prevent or minimize damage to coral reef ecosystems, including activities described in section 212 of this title."

(c) DATA ARCHIVE, ACCESS, AND AVAILABILITY.—The Secretary, in coordination with similar efforts at other Departments and agencies shall provide for the long-term stewardship of environmental data, products, and information via data processing, storage, and archive facilities pursuant to this title. The Secretary may—

"(1) archive environmental data collected by Federal, State, local, and tribal organizations and federally funded research;"

"(2) promote widespread availability and dissemination of environmental data and information through full and open access and exchange to the greatest extent possible, including in electronic format on the Internet;"
(3) develop standards, protocols, and procedures for sharing Federal data with State and local government programs and the private sector or academia; and

(4) establish and maintain data standards for coral reef ecosystems in accordance with Federal Geographic Data Committee guidelines.

(d) Emergency Response, Stabilization, and Restoration Activities.—

(1) Establishment of Account.—The Secretary shall establish an account (to be called the Emergency Response, Stabilization, and Restoration Account) in the Damage Assessment Restoration Revolving Fund established by the Department of Commerce, to be used for emergency response, stabilization, and restoration of coral reef ecosystems in waters outside the United States jurisdiction. Funds appropriated for the Account under section 219, and funds authorized by sections 213(d)(1)(C)(ii) and 214(e)(3)(B), shall be deposited into the Account and made available for use by the Secretary as specified in sections 213 and 214.

(2) Deposit and Investment of Certain Funds.—Any amounts received by the United States pursuant to sections 213(d)(1)(C)(ii) and 214(e)(3)(B) shall be deposited into the Emergency Response, Stabilization, and Restoration Account, established under paragraph (1). The Secretary of Commerce may request the Secretary of the Treasury to invest such portion of the Dam- age Assessment Restoration Revolving Funds as are not in the judgment of the Secretary of Commerce, required to meet the current needs of the fund. Such investments shall be made by the Secretary of the Treasury in public debt securities, with maturities suitable to the needs of the fund, as determined by the Secretary of Commerce and bearing interest rates determined by the Secretary of Commerce, taking into consideration the current market yields on outstanding marketable obligations of the United States of comparable maturity. Interest earned on such investments shall be available for use by the Secretary without further appropriation and remain available until expended.

SEC. 10. STUDY OF TRADE IN CORALS.

(a) In General.—The Secretary of Commerce, in consultation with the Secretary of the Interior, shall conduct a study on the economic, social, and environmental values and impacts of the United States market in corals and coral products.

(b) Contents.—The study shall—

(1) assess the current economic values of the United States market in coral and coral products, including import and export trade;

(2) identify primary coral species used in the coral and coral product trade and location of harvest;

(3) assess the environmental impacts associated with wild harvest of coral;

(4) assess the effectiveness of current public and private programs aimed at promoting conservation in the coral and coral product trade;

(5) identify economic and other incentives for coral reef conservation as part of the coral and coral product trade; and

(6) identify additional actions, if necessary, to ensure that the United States market in coral and coral products does not contribute to the degradation of coral reef ecosystems.

(2) Report.—Not later than 30 months after the date of enactment of this Act, the Secretary shall submit to the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Natural Resources, and publish in the Federal Register, an international coral reef ecosystem strategy, consistent with the purposes of this Act and the national implementation of the international coral reef conservation. The Secretary may consult with the Coral Reef Task Force in carrying out this subsection.

(3) International Coral Reef Ecosystem Strategy.—

(1) In General.—The Secretary shall carry out international coral reef conservation activities consistent with the purposes of the Act and the implementation and management of coral reef ecosystems in waters outside the United States jurisdiction. The Secretary shall develop and implement an international coral reef ecosystem strategy, consistent with the purposes of this Act and the national implementation of the international coral reef conservation.

(2) Coordination.—In carrying out this subsection, the Secretary shall consult with the Secretary of the Treasury, the Administrator of the Agency for International Development, the Secretary of the Interior, and other relevant Federal agencies, and relevant United States states, and shall take into account coral reef ecosystem conservation initiatives of other nations, international agreements, and intergovernmental and non-governmental organizations so as to provide for the most effective and efficient international coral reef conservation. The Secretary may consult with the Coral Reef Task Force in carrying out this subsection.

(4) Transfer of Funds.—To implement this section and subject to the availability of funds, the Secretary may transfer funds to a foreign government or international organization, and may accept transfers of funds from such entities, except that no more than 5 percent of funds appropriated to carry out the purpose of this section may be transferred under paragraph (1).

(5) Criteria for Approval.—The Secretary may not approve a partnership proposal under this section unless the partnership is consistent with the international coral reef conservation strategy developed pursuant to subsection (b), and meets the criteria specified in that strategy.

SEC. 11. INTERNATIONAL CORAL REEF CONSERVATION ACTIVITIES.

(a) International Coral Reef Conservation Activities.—

(1) In General.—The Secretary shall carry out international coral reef conservation activities consistent with the purposes of the Act and the implementation of coral reef ecosystems in waters outside the United States jurisdiction. The Secretary shall develop and implement an international coral reef ecosystem strategy, consistent with the purposes of this Act and the national implementation of the international coral reef conservation. The Secretary may consult with the Coral Reef Task Force in carrying out this subsection.

(b) International Coral Reef Ecosystem Strategy.—

(1) In General.—Not later than 1 year after the date of enactment of the Coral Reef Conservation Amendments Act of 2011, the Secretary shall submit to the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Natural Resources, and publish in the Federal Register, an international coral reef ecosystem strategy, consistent with the purposes of this Act and the national implementation of the international coral reef conservation. The Secretary may consult with the Coral Reef Task Force in carrying out this subsection.

(2) Coordination.—The Secretary shall coordinate implementation of the strategy with entities described in subsection (a)(2) to address the conservation of coral reef ecosystems identified pursuant to subparagraph (A) and (B) of section 203(a).

(3) National Goals, Objectives, and Specific Targets for Conservation of Priority International Coral Reef Ecosystems.—

(1) Identify coral reef ecosystems throughout the world that are of high value to United States marine resources, that support biodiversity values, or that are important to the United States such as fisheries, or that support other interests of the United States;

(2) summarize existing activities by Federal and international agencies described in subsection (a)(2) to address the conservation of coral reef ecosystems identified pursuant to subparagraph (A) and (B) of section 203(a);

(3) establish goals, objectives, and specific targets for conservation of priority international coral reef ecosystems;

(4) describe appropriate activities to achieve the goals and targets for international coral reef conservation, in particular those that leverage activities already conducted under this Act;

(5) develop a strategy to coordinate implementation of the strategy with entities described in subsection (a)(2) in order to leverage current activities under this Act and other conservation efforts globally;

(6) identify appropriate partnerships, grants, or other funding and technical assistance mechanisms to carry out the strategy; and

(7) develop criteria for prioritizing partnerships under subsection (c).

(c) International Coral Reef Ecosystem Partnerships.—

(1) In General.—The Secretary shall establish an international coral reef ecosystem partnership program to provide support, in coordination with Federal and State experts and managers; and

(2) Terms and Conditions.—The provisions of subsections (b), (d), (e), and (i) of section 204 apply to grants under subsection (a) that, for purposes of applying section 204(b)(1) to grants under this section, ‘‘75 percent’’ shall be substituted for ‘‘50 percent.’’

SEC. 12. COMMUNITY-BASED PLANNING GRANTS.

The Act (16 U.S.C. 6401 et seq.) is amended by inserting after section 209, as added by section 11 of this Act, the following:

SEC. 216. COMMUNITY-BASED PLANNING GRANTS.

(a) In General.—The Secretary may make grants to entities that have received grants under section 209 to provide additional funds to such entities to work with local communities and through appropriate Federal and State entities to prepare and implement plans for the conservation of coral reef areas identified by the community and scientific experts as high priorities for focused attention. The plans shall—

(1) support attainment of 1 or more of the criteria described in section 204(g);

(2) be developed at the community level;

(3) utilize watershed-based approaches;

(4) provide for coordination with Federal and State experts and managers; and

(5) build upon local approaches, strategies, or models, including traditional or island-based resource management concepts.

(b) Terms and Conditions.—The provisions of subsections (b), (d), (e), and (i) of section 204 apply to grants under subsection (a).
coral reef ecosystems that have a high incidence of vessel impacts, including groundings and anchor damage; 

(2) identify appropriate measures, including planning, placement, and types of aids to navigation, moorings, designated anchorage areas, fixed anchors and other devices, to reduce the likelihood of such impacts; and 

(3) provide time and resources to implement such measures, including cooperative actions with other government agencies and non-governmental partners.

SEC. 15. DESTRUCTION OF CORAL REEFS.

(a) In general.—The Act (16 U.S.C. 6401 et seq.) is amended by inserting after section 211, as added by section 13 of this Act, the following:

"(4) No limit to liability.—Nothing in sections 30501 through 30512 or section 30706 of title 46, United States Code, shall limit liability to any person under this title.

(b) Damage assessment actions.—

(1) Response actions.—The Secretary may undertake or authorize all necessary actions to prevent or minimize the destruction, loss, or taking of, or injury to, coral reefs, or components thereof, or to minimize the risk of or imminent risk of such destruction, loss, or injury.

(2) Damage assessment.—

(A) The Secretary shall assess damages (as defined in section 221(b)) to coral reefs in consultation with the National Oceanic and Atmospheric Administration with regard to damage assessment actions undertaken for coral reefs within State waters.

(B) There shall be no double recovery under this chapter for coral reef damages, including the cost of damage assessment, for the same incident.

(c) Commencement of civil action for response costs and damages.—

(1) Commencement.—The Attorney General, upon the request of the Secretary, may commence a civil action against any person or vessel that may be liable under subsection (a) of this section for response costs, seizure, forfeiture, storage, or disposal costs, and interest or the injury resulting from the response actions.

(2) Location of action.—Any action under this section shall be brought in the United States District Court for the District of Columbia or in any United States district court in which—

(A) the defendant is located, resides, or is doing business, in the case of an action against a person;

(B) the vessel is located, in the case of an action against a vessel;

(C) the destruction, loss, or taking of, or injury to, a coral reef, or component thereof, occurred or in which there is an imminent risk of such destruction, loss, or injury;

(D) where some or all of the coral reef or component thereof that is the subject of the action is not within the territory covered by any United States district court, action may be brought either in the United States district court for the district closest to the location where the destruction, loss, injury, or imminent risk of injury occurred, or in the United States District Court for the District of Columbia.

(3) Use of recovered amounts.—

(A) In general.—Any costs, including response costs and damages recovered by the Secretary under this section shall—

(i) be deposited into an account or accounts in the Damage Assessment and Restoration Revolving Fund established by the Department of Commerce Appropriations Act, 1991 (33 U.S.C. 2766 note), or the Natural Resource Damage Assessment and Restoration Fund established by the Department of the Interior and Related Agencies Appropriations Act, 1992 (43 U.S.C. 1474a), as appropriate given the location of the violation;

(ii) be available for use by the Secretary without further appropriation and remain available until expended; and

(iii) be available for use, as the Secretary considers appropriate—

(I) to reimburse the Secretary or any other Federal or State agency that conducted activities under this Act for costs incurred in conducting the activity;
“(ii) to be transferred to the Emergency Response, Stabilization and Restoration Account established under section 208(d) to reimburse that account for amounts used for authorized actions; and”

“(iii) after reimbursement of such costs, to restore, replace, or acquire the equivalent of any coral reef, or components thereof, including the costs of monitoring or to minimize or prevent threats of equivalent injury to, or destruction of coral reefs, or components thereof.”

“(2) UNDER THIS CONSIDERATION.—In development of restoration alternatives under paragraph (1)(C), the Secretary shall consider State and territorial preferences and, if appropriate, prioritize projects with geographic and ecological linkages to the injured resources.

“(e) STATUTE OF LIMITATIONS.—An action for response costs or damages under subsection (c) shall be barred unless the claim is filed within 3 years after the date on which the Secretary completes a damage assessment and restoration plan for the coral reefs, or components thereof, to which the action relates.

“(f) FEDERAL GOVERNMENT ACTIVITIES.—In the event of threatened or actual destruction of, loss of, or injury to a coral reef or component thereof resulting from an incident causing or contributing to a Department or agency of the United States Government, the cognizant Department or agency shall satisfy its obligations under this section by promptly, in coordination with the Secretary, taking appropriate actions, respond to and mitigate the harm and restoring or replacing the coral reef or components thereof and reimbursing the Secretary for all assessing related costs.

“(g) UNIFORMED SERVICE OFFICERS AND EMPLOYEES.—No officer or employee of a uniformed service (as defined in section 101 of title 10, United States Code) shall be held liable under this section, either in such officer’s or employee’s personal or official capacity, for any violation of section 212 occurring during the performance of the officer’s or employee’s official governmental duties.

“(h) CONTRACT EMPLOYEES.—No contract employee of a uniformed service (as so defined, serving as vessel master or crew member, shall be liable under this section for any violation of section 212 if that contract employee may—

“(1) acting as a contract employee of a uniformed service under the terms of an operating contract for a vessel owned by a uniformed service or by a non-uniformed service (as defined in this subsection, under this title, and such other matters as justice may require. In determining the amount of civil administrative penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior violations, and such other matters as justice may require. In imposing such penalty, the district court may also consider information related to the ability of the violator to pay.”

“(4) NOTICE.—No penalty or permit sanction shall be assessed under this subsection unless the person is given notice and an opportunity for a hearing.

“(5) IN REM JURISDICTION.—A vessel used in violating this title, any regulation promulgated under this title, or any permit issued under this title shall be liable in rem for any civil penalty assessed for such violation. Such penalty shall constitute a maritime lien on such vessel and in an action in rem in the district court of the United States having jurisdiction over the vessel.

“(6) COLLECTION OF PENALTIES.—If any person fails to pay an assessment of a civil penalty under this section after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General, who shall recover the amount assessed and, if appropriate, claim said assessment for the United States (plus interest at current prevailing rates from the date of the final order). In such action, the validity and appropriateness of said assessment and civil penalty shall not be subject to review. Any person who fails to pay, on a timely basis, the amount of an assessment of a civil penalty shall be required to pay, in addition to such amount and interest, attorney’s fees and costs for collection proceedings and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to 20 percent of the aggregate amount of such person’s penalties and nonpayment penalties that remain unpaid as of the beginning of such quarter.

“(7) COMPROMISE OR OTHER ACTION BY SECRETARY.—The Secretary may, with the concurrence of the Attorney General, compromise, modify, or remit, with or without conditions, any civil administrative penalty or permit sanction which is or may be imposed under this section and that has not been referred to the Attorney General for further enforcement action.

“(8) JURISDICTION.—The several district courts of the United States shall have jurisdiction over any actions brought by the United States arising under this section. For the purpose of this section, American Samoa shall be considered within the judicial district of the District Court for the District of the United States for the District of Hawaii. Each violation shall be a separate offense and the offense shall be deemed to have been committed not only in the district where the violation first occurred, but also in any other district as authorized by law.

“(A) CRIMINAL FORFEITURE.—(1) A person who is convicted of an offense in violation of this title shall forfeit to the United States—

“(a) any property, real or personal, constituting or traceable to the gross proceeds taken, obtained, or retained, in connection with or as a result of the offense, including, without limitation, any vessel (including the vessel’s equipment, stores, cargo, vessel, aircraft, or other means of transportation).

Pursuant to section 266(c) of title 28, United States Code, the provisions of section 413 of
the Controlled Substances Act (21 U.S.C. 853) other than subsection (d) thereof shall apply to criminal forfeitures under this section.

(2) CIVIL FORFEITURE.—The property set forth in subsection (a) is subject to forfeiture to the United States in accordance with the provisions of chapter 46 of title 18, United States Code, and no property right shall exist in it:

(A) any property, real or personal, constituting or traceable to the gross proceeds from, or the gain derived from, any violation of this title, including, without limitation, any coral reef or coral reef component (or the fair market value thereof).

(B) any property, real or personal, used or intended to be used, in any manner, to commit or facilitate the commission of a violation of this title, including, without limitation, any vessel (including the vessel’s equipment, stores, catch and cargo), vehicle, aircraft, or other means of transportation.

(3) APPLICATION OF THE CUSTOMS LAWS.—All provisions of law relating to seizure, summary judgment, and judicial forfeiture and condemnation for violation of the customs laws, the disposition of the property forfeited, the conduct of the proceedings, the sale thereof, the remission or mitigation of such forfeitures, and the compromise of claims shall apply to seizures and forfeitures incurred in connection with the provisions of this title, insofar as applicable and not inconsistent with the provisions hereof. For seizures and forfeitures of property under this section by the Secretary, such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws may be performed by such officers as are designated by the Secretary or, upon request of the Secretary, by any other agency that has authority to manage and dispose thereof.

(4) PREJUDICIAL.—For the purposes of this section there is a rebuttable presumption that any coral reef, or components thereof, found on board a vessel that is used or seized in connection with a violation of this title or of any regulation promulgated under this section was taken, obtained, or retained in violation of such title or regulation.

(e) PAYMENT OF STORAGE, CARE, AND OTHER COSTS.—Any person assessed a civil penalty under this section shall be liable for any costs, including, but not limited to, the reasonable and necessary costs incurred in connection with the sale or retention of the property seized in connection with the violation.

(f) EXPENDITURES.—

(1) Notwithstanding section 3302 of title 31, United States Code, or section 311 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861), any amounts received by the United States as civil penalties under section 212, and amounts remaining after the operation of paragraph (2) of this subsection shall:

(A) be placed into an account;

(B) be available for use by the Secretary without further appropriation; and

(C) remain available until expended.

(2) Amounts received under this section for forfeitures under subsection (d) and costs imposed under subsection (e) shall be used to pay the reasonable and necessary costs incurred by the Secretary to provide temporary storage, care, maintenance, and disposal of any property seized in connection with a violation of this title or any regulation promulgated under this title.

(3) Amounts received under this section as civil penalties under subsection (c) of this section and any amounts remaining after the operation of paragraph (2) of this subsection shall:

(A) be used to stabilize, restore, or otherwise manage the coral reef with respect to which the violation occurred that resulted in the assessment of a civil penalty, or to a forfeiture of property, for the violation or any related violation promulgated under this title.

(B) be transferred to the Emergency Response, Stabilization, and Restoration Account established under section 206(d) or an account described in section 213(b) of this title, to reimburse such account for amounts used for authorized emergency actions;

(C) be used to conduct monitoring and enforcement activities;

(D) be used to conduct research on techniques to stabilize and restore coral reefs;

(E) be used to fund activities that prevent or reduce the likelihood of future damage to coral reefs;

(F) be used to stabilize, restore or otherwise manage any other coral reef; or

(G) be used to pay a reward to any person who furnishes information leading to an assessment of a civil penalty, or to a forfeiture of property, for the violation or any related violation promulgated under this title.

(g) CRIMINAL ENFORCEMENT.—

(1) Any person (other than a foreign government or any department) who knowingly commits any act prohibited by section 212(c) of this title shall be imprisoned for not more than 5 years and shall be fined not more than $100,000 for an individual or $1,000,000 for an organization; except that if in the commission of any other offense the individual uses a dangerous weapon, engages in conduct that constitutes an attempt to injure any person authorized to enforce the provisions of this title, or places any such offender in fear of imminent bodily injury, the maximum term of imprisonment is not more than 10 years.

(2) Any person (other than a foreign government or any department) who violates subsection (b), (d), or (e) of section 212 shall be fined under title 18, United States Code, or imprisoned not more than 5 years or both.

(3) Any person (other than a foreign government or any department) who violates subsection (b), (d), or (e) of section 212 shall also be fined under title 18, United States Code, or imprisoned not more than 1 year, or both.

(4) The several district courts of the United States shall have jurisdiction over any action brought by the United States arising under this subsection. For the purpose of this subsection, American Samoa shall be included within the judicial district of the District of the United States for the District of Hawaii. Each violation shall be a separate offense and the offense shall be brought in any district where the destruction, loss, or injury occurred, or in the United States district court for any district in which any actions brought by the United States are subject to the venue provisions of chapter 550 of title 28, United States Code.

(h) INJUNCTIVE RELIEF.—

(1) Injunctions shall be available against a vessel; or

(2) Injunctions shall be available against a person.

(i) PENALTIES.—Any person who knowingly violates subsection (b), (d), or (e) of section 212, and who, in the exercise of due care, should have known that such person's conduct violated section 212, and who, in the exercise of due care, should have known that such person's conduct violated subsection (b), (d), or (e) of section 212, shall be fined under title 18, United States Code, or imprisoned not more than 10 years.

(k) AREA OF APPLICATION AND ENFORCEABILITY.—The area of application and enforceability of this title includes the interior waters of the United States, the territorial sea of the United States, as described in Presidential Proclamation 5928 of December 27, 1988, the Exclusive Economic Zone of the United States as described in Presidential Proclamation 5050 of March 10, 1983, and the continental shelf, consistent with international law.

(l) UNIFORMED SERVICE SERVICE OF PROCESS.—In any action by the United States under this title, process may be served in any district in which the defendant is found, resides, transacts business, or is an unincorporated service (as defined in section 101 of title 31, United States Code), or is an agent of the United States, or in which there is an imminent risk of such destruction, loss, or injury, or in which there is an imminent risk of such destruction, loss, or injury, or in which there is an imminent risk of such destruction, loss, or injury, or in the United States District Court for the District of Columbia.

(m) UNIFORMED SERVICE OFFICERS AND EMPLOYEES.—No officer or employee of a uniformed service (as defined in section 101 of title 10, United States Code) shall be held liable under this section, either in such officer's or employee's personal or official capacity, for any violation of section 212 occurring during the performance of the officer's or employee's official governmental duties.

(n) CONTRACT EMPLOYEES.—No contract employee of a uniformed service (as so defined) serving as vessel master or crew member, officer authorized to enforce the provisions of this title, or in any district in which the destruction, loss, or injury occurred, or in the United States District Court for the District of Columbia.

(S) UNIFORMED SERVICE OFFICERS AND EMPLOYEES.—No officer or employee of a uniformed service (as defined in section 101 of title 10, United States Code) shall be held liable under this section, either in such officer's or employee's personal or official capacity, for any violation of section 212 occurring during the performance of the officer's or employee's official governmental duties.

(o) CONTRACT EMPLOYEES.—No contract employee of a uniformed service (as so defined) serving as vessel master or crew member, officer authorized to enforce the provisions of this title, or in any district in which the destruction, loss, or injury occurred, or in the United States District Court for the District of Columbia.
SEC. 216. REGIONAL, STATE, AND TERRITORIAL COORDINATION.

(a) REGIONAL COORDINATION.—The Secretary may issue such regulations as are necessary and appropriate to carry out the purposes of this title and the Act (16 U.S.C. 6401 et seq.) is amended by inserting after section 215, as added by section 17 of this Act, the following:

(b) RESPONSE AND RESTORATION ACTIVITIES.—The Secretary shall enter into written agreements with any States in which coral reefs are located regarding the manner in which response and restoration activities will be conducted within the affected State’s waters. Nothing in this subsection shall be construed to limit Federal response and restoration activity authority before any such agreement is final.

(c) COOPERATIVE ENFORCEMENT AGREEMENTS.—All cooperative enforcement agreements in place between the Secretary and States affected by this title shall be updated to include enforcement of this title where appropriate.

SEC. 19. REGULATIONS.

The Act (16 U.S.C. 6401 et seq.) is amended by inserting after section 216, as added by section 16 of this Act, the following:

SEC. 217. REGULATIONS.

The Secretary may issue such regulations as are necessary and appropriate to carry out the purposes of this title. This title and the Act (16 U.S.C. 6401 et seq.) is amended by inserting after section 215, as added by section 17 of this Act, the following:

SEC. 218. EFFECTIVENESS AND ASSESSMENT REPORT.

Section 218 (formerly 16 U.S.C. 6407), as redesignated by section 7 of this Act, is amended to read as follows:

SEC. 218. EFFECTIVENESS AND ASSESSMENT REPORT.

(a) EFFECTIVENESS REPORT.—Not later than March 1, 2016, and every 3 years thereafter, the Secretary shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Natural Resources a report describing all activities undertaken to implement the strategy, including:

(1) a description of the funds obligated by each participating Federal agency to advance coral reef conservation during each of the 3 fiscal years next preceding the fiscal year in which the report is submitted;

(2) a description of Federal interagency and cooperative efforts with States and United States territories to prevent or address overharvesting, coastal runoff, or other anthropogenic impacts on coral reefs, including projects undertaken with the Department of Interior, Department of Agriculture, the Environmental Protection Agency, and the United States Army Corps of Engineers; (3) a summary of the information contained in the vessel grounding inventory established under subsection (a) and data relating to the National Response Plan to address damage to coral reefs and coral reef ecosystems.

(b) ASSESSMENT REPORT.—Not later than March 1, 2013, and every 5 years thereafter, the Secretary will submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Natural Resources an assessment of the conditions of U.S. coral reef ecosystems pursuant to this Act, and the effectiveness of management actions to address threats to coral reefs.

SEC. 21. AUTHORIZATION OF APPROPRIATIONS.

Section 219 (formerly 16 U.S.C. 6408), as redesignated by section 7 of this Act, is amended—

(1) by striking "$16,000,000 for each of fiscal years 2012, 2013, 2014, and 2015, $40,000,000 for fiscal year 2016, and $50,000,000 for each of fiscal years 2017, 2018, through 2022," and inserting ''$34,000,000 for fiscal year 2012, $36,000,000 for fiscal year 2013, $38,000,000 for fiscal year 2014, and $40,000,000 for each of fiscal years 2015 through 2026, of which no less than 24 percent per year (for each of fiscal years 2012 through 2016) shall be used for the grant program under section 204, no less than 3 percent shall be used to carry out the Fishery Management Act, and up to 10 percent per year shall be used for the Fund established under section 206(a);'';

(2) by striking "$2,000,000" in subsection (b) and inserting "$2,000,000";

(3) by striking subsection (c) and inserting the following:

(c) COMMUNITY-BASED PLANNING GRANTS.—There are authorized to be appropriated to the Secretary to carry out section 210 $10,000,000 for fiscal years 2012 through 2026 to remain available until expended;''

and

(4) by striking subsection (d) and inserting the following:

(d) INTERNATIONAL CORAL REEF CONSERVATION PROGRAM.—There are authorized to be appropriated to the Secretary to carry out section 211 $5,000,000 for fiscal years 2012 through 2016, to remain available until expended.

SEC. 22. JUDICIAL REVIEW.

The Act (16 U.S.C. 6401 et seq.) is amended by inserting after section 219, as redesignated by section 7 of this Act, the following:

SEC. 220. JUDICIAL REVIEW.

(a) IN GENERAL.—Chapter 7 of title 5, United States Code, is not applicable to any action taken under this title, except that—

(1) review of any final agency action of the Secretary pursuant to sections 214(c)(1) and 214(c)(2) may be had only by the filing of a complaint by an interested person in the United States territories or for the appropriate district; any such complaint must be filed within 30 days of the date such final agency action is taken; and

(2) review of any final agency action of the Secretary pursuant to section 215 may be had by the filing of a petition for review by an interested person in the Circuit Court of Appeals of the United States for the federal judicial district in which such person resides or transact business which is directly affected by the action taken; such petition shall be filed within 60 days of the date on which the petition was or should have been served on the Secretary from the date such final agency action is taken.

(b) NO REVIEW IN ENFORCEMENT PROCEEDINGS.—Final agency action with respect to which review could have been obtained under subsection (a)(2) shall not be subject to judicial review in any civil or criminal proceeding for enforcement.

(c) COST OF LITIGATION.—In any judicial proceeding under subsection (a), the court may award costs of litigation (including reasonable attorney and expert witness fees) to any prevailing party whenever it determines that such award is appropriate.

SEC. 23. DEFINITIONS.

221 (formerly 16 U.S.C. 6409), as redesignated by section 7 of this Act, is amended to read as follows:
SEC. 21. DEFINITIONS.

In this title:

(1) BIODIVERSITY.—The term ‘biodiversity’ means the variability among living organisms from all sources including, inter alia, terrestrial, marine, and other aquatic ecosystems and the ecological complexes of which they are part, including diversity within species, between species, and of ecosystems.

(2) BONA FIDE RESEARCH.—The term ‘bona fide research’ means scientific research on corals, the results of which are likely—

(A) to identify, evaluate, or resolve conservation problems;

(B) to contribute to the basic knowledge of coral biology or ecology;

(C) to identify, evaluate, or resolve conservation problems.

(3) CORAL.—The term ‘coral’ means species of the phylum Cnidaria, including—

(A) all species of the orders Antipatharia (black corals), Scleractinia (stony corals), Gorgonacea (horny corals), Stolonifera (organ pipe corals and others), Alcyonacea (soft corals), and Heliopora (blue coral) of the class Anthozoa; and

(B) all species of the families Milleporidae (fire corals) and Stylasteridae (soft corals), and Stolonifera (any species referred to in paragraph (3), their skeletal remains, or (stylasterid hydrocorals) of the class Milleporidea (fire corals) and Stylasteridae (soft corals), and Helioporaceae (blue coral) of Gorgonacea (horny corals), Stolonifera (any species referred to in paragraph (3).

(4) CORAL REEF.—The term ‘coral reef’ means structures composed in whole or in part of living corals, as described in paragraph (3), their skeletal remains, or both, and including other corals, associated sessile invertebrates and plants, and associated seagrasses.

(5) CORAL REEF COMPONENT.—The term ‘coral reef component’ means any part of a coral reef, including individual living or dead corals, associated sessile invertebrates and plants, and any adjacent or associated seagrasses.

(6) CORAL REEF ECOSYSTEM.—The term ‘coral reef ecosystem’ means the system of coral reefs and geographically associated species, habitats, and environment, including any adjacent or associated mangroves and seagrass habitats, and the processes that control its dynamics.

(7) CORAL PRODUCTS.—The term ‘coral products’ means all living or dead specimens, parts, or derivatives, or any product containing specimens, parts, or derivatives, of any species referred to in paragraph (3).

(8) DAMAGES.—The term ‘damages’ includes—

(A) compensation for—

(i) the cost of replacing, restoring, or acquiring the equivalent of the coral reef, or component thereof, and

(ii) the lost services of, or the value of the lost use of, the coral reef or component thereof or the cost of activities to minimize or prevent threats of, equivalent injury to, or destruction of coral reefs or components thereof, pending restoration or replacement or the acquisition of an equivalent coral reef or component thereof;

(B) the reasonable cost of damage assessments under section 213;

(C) the reasonable costs incurred by the Secretary in implementing section 208(d);

(D) the reasonable cost of monitoring appropriate to the injured, restored, or replaced resources;

(E) the reasonable cost of curation, conservation and loss of contextual information of any coral encrusted archaeological, historical, or cultural resource;

(F) the cost of legal actions under section 213, undertaken by the United States, associated with the destruction or loss of, or injury to, a coral reef component thereof, including the costs of attorney time and expert witness fees; and

(G) the indirect costs associated with the costs listed in subparagraphs (A) through (F) of this paragraph.

(9) EMERGENCY ACTIONS.—The term ‘emergency action’ means any necessary action to prevent or minimize the additional destruction or loss of, or injury to, coral reefs or components thereof, or to minimize the risk of such additional destruction, loss, or injury.

(10) EXCLUSIVE ECONOMIC ZONE.—The term ‘Exclusive Economic Zone’ means the waters of the Exclusive Economic Zone of the United States under Presidential Proclamation 5030, dated March 10, 1983.

(11) PERSON.—The term ‘person’ means any individual, private or public corporation, partnership, trust, institution, association, or any other public or private entity, whether foreign or domestic, private person or entity, or any officer, employee, agent, Department, agency, or instrumentalities of the Federal Government, of any State or local unit of government, or of any foreign government.

(12) RESPONSE COSTS.—The term ‘response costs’ means the costs of actions taken or authorized by the Secretary to minimize destruction or loss of, or injury to, a coral reef, or component thereof, or to minimize the imminent risks of such destruction, loss, or injury, including costs related to seizure, forfeiture, storage, or disposal arising from liability under section 213.

(13) SECRETARY.—The term ‘Secretary’ means—

(A) for purposes of sections 201 through 211, sections 218 through 220 (except as otherwise provided in subparagraph (B)), and the other paragraphs of this section, the Secretary of Commerce, acting through the Administrator of the National Oceanic and Atmospheric Administration; and

(B) for purposes of sections 212 through 220—

(i) the Secretary of the Interior for any coral reef or component thereof located in (I) the National Wildlife Refuge System, (II) the National Park System, and (III) the waters surrounding Wake Island under the jurisdiction of the Secretary of the Interior, as set forth in Executive Order 11946 (27 Fed. Reg. 8853, September 26, 1962); or

(ii) the Secretary of Commerce for any coral reef or component thereof located in any area not described in subparagraph (i); and

(C) to the basic knowledge of coral biology or ecology;

(D) to contribute to the basic knowledge of coral biology or ecology;

(E) to identify, evaluate, or resolve conservation problems.

(14) SERVICE.—The term ‘service’ means functions, ecological or otherwise, performed by a coral reef or component thereof.

(15) STATE.—The term ‘State’ means any State or territory of the United States, as defined in section 402 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. [22211] 1431). The term shall include any island unit, including outlying areas, of any State or any possession of the United States, and shall include any other territory of the United States under Presidential Proclamation 5030, dated March 10, 1983.


By Mr. INOUYE (for himself, Mr. REED, and Mr. BEGICH): S. 48. A bill to amend the Public Health Service Act to provide for the participation of pharmacists in National Health Services Corps programs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. INOUYE. Mr. President, today I rise to recognize the need for inclusion of pharmacists in the National Health Services Corps, NHSC, student loan repayment program. It is imperative that our Nation focus its efforts on increased access to affordable, high quality healthcare for our Nation’s underserved communities. Today’s pharmacist graduates will be our Nation’s future pharmacists. They will fill the gaps that currently exist and provide access to primary care to underserved communities. Pharmacists are vital to our healthcare system envisioned in legislation, federal action, and community-based models all benefit from patient-centered, team-based models of care that incorporate comprehensive pharmacy services. I urge you to consider the benefits of including pharmacists in the NHSC loan repayment program.
Mr. KOHL. Mr. President, I rise today to introduce legislation essential to restoring competition to the nation’s freight railroad industry. Freight railroads are essential to shipping a myriad of vital goods, everything from coal used to generate electricity to grain used for basic foodstuffs. But for decades the freight railroads have been insulated from the normal rules of competition followed by almost all other parts of our economy by an outdated and unwarranted antitrust exemption. So today I am introducing, along with my colleagues, the Rail Antitrust Enforcement Act of 2011. This bipartisan legislation will eliminate the obsolete antitrust exemptions that protect freight railroads from competition. This legislation is identical to the legislation that was reported out of the Judiciary Committee and passed last Congress by a unanimous 15-0 vote.

Our legislation will eliminate unwarranted and outdated antitrust exemptions that protect freight railroads from competition and result in higher prices to millions of consumers every day. Consolidation in the railroad industry in recent years has resulted in only four Class I railroads providing nearly 90 percent of the Nation’s freight rail transportation, as measured by revenue. The harmful result of this industry concentration for railroad shippers is well documented. A 2006 General Accounting Office Report found that shippers in many geographic areas “may be paying excessive rates due to a lack of competition in these markets.” These unjustified cost increases cause consumers to suffer higher electricity bills because a utility must pass on the cost of transporting coal, result in higher prices for goods produced by manufacturers who rely on railroads to transport raw materials, and reduce earnings for American farmers who ship their products by rail and raise fuel prices paid by consumers.

A recent staff report, issued September 15, 2010, of the Committee on Commerce, Science, and Transportation also makes clear how railroads have benefited from the unique combination of deregulation and large-scale antitrust immunity, to the detriment of rail shippers and consumers. This Report, “Current Status of the Class I Freight Rail Industry”—stated that “[t]he four Class I railroads that today dominate the U.S. rail shipping market are achieving returns on revenue and operating ratios that rank them among the most profitable businesses in the U.S. economy.” The four largest railroads nearly doubled their collective profit margins in the last decade to 13 percent ranking the railroad industry the fifth most profitable industry as ranking by Fortune magazine.

Increased concentration and lack of antitrust scrutiny have had clear price effects—according to the Commerce Committee Report, since 2004, “Class I freight railroads have benefited from a lower average of 5 percent a year above inflation.” The recent Commerce Committee Report concluded that “Class I freight railroads have regained the pricing power they lacked in the 1980s, and are now some of the most highly profitable businesses in the U.S. economy.” Given the industry’s concentration and pricing power, the case for full fledged application of the antitrust laws is plain.

The ill-effects of railroad industry consolidation are exemplified in the case of “catcher ships”—industries served by only one railroad. Over the past several years, these captive shippers have had far less say in the pricing. They are the victims of monopolistic practices and price gouging by the single railroad that serves them, price increases which they are forced to pass along into the price of their products, and in many cases, the ordinary protections of antitrust law are unavailable to these captive shippers—instead, the railroads are protected by a series of outdated exemptions from the normal rules of antitrust law to which all other industries must abide.

These unwarranted antitrust exemptions have put the American consumer at risk, and in Wisconsin, victims of a lack of railroad competition abound. From Dairyland Power Cooperative in La Crosse to Wolf River Lumber in New London, companies in my state are feeling the crunch of years of railroad consolidation. To help bring down the percent increase in shipping rates in 2006, Dairyland Power Cooperative had to raise electricity rates by 20 percent. The reliability, efficiency, and affordability of freight rail have all declined, and Wisconsin consumers feel the pinch.

And similar stories exist across the country. We held a hearing at the Antitrust Subcommittee in the 110th Congress which detailed numerous instances of anti-competitive conduct by the dominant freight railroads and at which railroad shippers testified as to the need to repeal the outdated and unwarranted antitrust exemptions which left them without remedies. Dozens of organizations, unions and trade groups affected by monopolistic railroad conduct endorsed the Railroad Antitrust Enforcement Act in the last Congress. Supporters of the legislation include 20 state Attorneys General, the National Association of Regulatory Utility Commissioners, the Consumers Federation of America, Consumers Union, the American Farm Bureau Federation, American Chemistry Council, the American Corn Growers Association, the American Forest and Paper Association, the American Farm Bureau, the American Public Power Association, and the American Bar Association Antitrust Section.

The current antitrust exemptions protect a wide range of railroad industry conduct from scrutiny by governmental antitrust enforcers. Railroad mergers and acquisitions are exempt from antitrust law and are reviewed solely by the Surface Transportation Board. Railroads that engage in collective rate making are also exempt from antitrust law. Railroads subject to the regulation of the Surface Transportation Board are also exempt from private antitrust lawsuits seeking the termination of anti-competitive practices via injunctive relief. Our bill will eliminate these exemptions.

No good reason exists for them. While railroad legislation in recent decades—including most notably the Staggers Rail Act of 1980—deregulated railroad rates under the oversight of the Surface Transportation Board, these obsolete antitrust exemptions remained in place, insulating a consolidating industry from obeying the rules of fair competition. And there is no reason to treat railroad roads any differently from dozens of other regulated industries in our economy that are fully subject to antitrust law—whether the telecommunications sector regulated by the FCC, or the aviation industry regulation by the Department of Transportation, just name just two examples.

Our bill will bring railroad mergers and acquisitions under the purview of...
the Clayton Act, allowing the federal government, state attorneys general and private parties to file suit to enjoin anti-competitive mergers and acquisitions. It will restore the review of these mergers to the agencies where they belong—the Justice Department’s Antitrust Division and the Federal Trade Commission. It will eliminate the exemption that prevents FTC’s scrutiny of railroad common carriers. It will eliminate the antitrust exemption for railroad collective ratemaking. It will allow attorneys general and other private parties to sue railroads for treble damages and injunctive relief for violations of the antitrust laws, including collusion that leads to excessive and unreasonable rates. This legislation will force railroads to play by the rules of free competition like all other businesses.

Significantly, our bill will not affect in way the jurisdiction of the Surface Transportation Board to regulate freight railroads. It will in no way limit or alter the authority of the STB; the STB will continue to exercise full jurisdiction over the railroad industry. In sum, by clearing out this thicket of outmoded antitrust exemptions, railroads will be subject to the same laws as the rest of the economy. Government antitrust enforcers will finally have the tools to prevent anti-competitive transactions and practices by railroads. Likewise, private parties will be able to utilize the antitrust laws to prevent anti-competitive action and to seek redress for their injuries. It is time to put an end to the abusive practices of the Nation’s freight railroads. On the Antitrust Subcommittee, we have seen that in industry after industry, vigorous application of our Nation’s antitrust laws is the best way to eliminate barriers to competition, to end monopolistic behavior, to keep prices low and quality of service high. The railroad industry is no different. All those who rely on railroads for products—whether it is an electric utility for its coal, a farmer to ship grain, or a factory to acquire its raw materials or ship out its finished product—deserve the full application of the antitrust laws to end the anti-competitive abuses all too prevalent in this industry today. I urge my colleagues support the Railroad Antitrust Enforcement Act of 2011.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 49

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

SECTION 1. SHORT TITLE.
This Act may be cited as the “Railroad Antitrust Enforcement Act of 2011.”

SEC. 2. INJUNCTIONS AGAINST RAILROAD COMPANIES.
The proviso in section 16 of the Clayton Act (15 U.S.C. 26) ending with “Code.” is amended to read as follows: “Provided, That nothing herein contained shall be construed to enjoin any person, firm, corporation, or association, except the United States, to sue for the enforcement of the antitrust laws against any common carrier that is not a railroad subject to the jurisdiction of the Surface Transportation Board under subtitle IV of title 49, United States Code.”

SEC. 3. MERGERS AND ACQUISITIONS OF RAILROADS.
The sixth un designated paragraph of section 7 of the Clayton Act (15 U.S.C. 18) is amended to read as follows: “Nothing contained in this section shall apply to transactions duly consummated pursuant to law by the Secretary of Transportation, Federal Power Commission, Surface Transportation Board (except for transactions described in section 11321 of that title), the Securities and Exchange Commission in the exercise of its jurisdiction under section 10 (of the Public Utility Holding Company Act of 1935), the United States Maritime Commission, or the Secretary of Agriculture under any statutory provision vesting such power in the Commission, Board, or Secretary.”

SEC. 4. LIMITATION OF PRIMARY JURISDICTION.
The Clayton Act is amended by adding at the end thereof the following: “Sec. 29. In any civil action against a common carrier railroad subject to the jurisdiction under subtitle IV of title 49, United States Code, the district court shall not be required to defer to the primary jurisdiction of the Surface Transportation Board.”

SEC. 5. FEDERAL TRADE COMMISSION ENFORCEMENT.
(a) CLAYTON ACT.—Section 11(a) of the Clayton Act (15 U.S.C. 21a) is amended by striking “subject to jurisdiction under” and all that follows through “the first semicolon” and inserting “subject to jurisdiction under subsection (b)”.
(b) FTC ACT.—Section 5(a)(2) of the Federal Trade Commission Act (15 U.S.C. 45(a)(2)) is amended by striking “common carriers subject” and inserting “common carriers.”

SEC. 6. EXEMPTIONS FROM APPLICATION OF TREBLE DAMAGES TO RAIL COMMON CARRIERS.
Section 4 of the Clayton Act (15 U.S.C. 15) is amended by inserting “subject to jurisdiction under the Surface Transportation Board under subtitle IV of title 49, United States Code” after “Commission, Board, or Secretary.”

SEC. 7. TERMINATION OF EXEMPTIONS IN TITLE 49.
(a) IN GENERAL.—Section 10706 of title 49, United States Code, is amended—
(1) redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and
(2) inserting after subsection (a) the following:
“(b) Subsection (a) shall apply to a common carrier by railroad subject to the jurisdiction of the Surface Transportation Board under subtitle IV of title 49, United States Code, without regard to whether such railroad has filed rates or whether a complaint challenging a rate has been filed.”

SEC. 8. EFFECTIVE DATE.
(a) IN GENERAL.—Section 10706 of title 49, United States Code, is amended to read as follows: “Rate agreements.”
(b) CONFORMING AMENDMENTS.—The heading for section 10706 of title 49, United States Code, is amended to read as follows: “Rate agreements.”

SEC. 2. INJUNCTIONS AGAINST RAILROAD COMPANIES.
The proviso in section 16 of the Clayton Act (15 U.S.C. 26) ending with “Code.” is amended to read as follows: “Provided, That nothing herein contained shall be construed to enjoin any person, firm, corporation, or association, except the United States, to sue for the enforcement of the antitrust laws against any common carrier that is not a railroad subject to the jurisdiction of the Surface Transportation Board under subtitle IV of title 49, United States Code.”

SEC. 3. MERGERS AND ACQUISITIONS OF RAILROADS.
The sixth un designated paragraph of section 7 of the Clayton Act (15 U.S.C. 18) is amended to read as follows: “Nothing contained in this section shall apply to transactions duly consummated pursuant to law by the Secretary of Transportation, Federal Power Commission, Surface Transportation Board (except for transactions described in section 11321 of that title), the Securities and Exchange Commission in the exercise of its jurisdiction under section 10 (of the Public Utility Holding Company Act of 1935), the United States Maritime Commission, or the Secretary of Agriculture under any statutory provision vesting such power in the Commission, Board, or Secretary.”

SEC. 4. LIMITATION OF PRIMARY JURISDICTION.
The Clayton Act is amended by adding at the end thereof the following: “Sec. 29. In any civil action against a common carrier railroad subject to the jurisdiction under subtitle IV of title 49, United States Code, the district court shall not be required to defer to the primary jurisdiction of the Surface Transportation Board.”

SEC. 5. FEDERAL TRADE COMMISSION ENFORCEMENT.
(a) CLAYTON ACT.—Section 11(a) of the Clayton Act (15 U.S.C. 21a) is amended by striking “subject to jurisdiction under” and all that follows through “the first semicolon” and inserting “subject to jurisdiction under subsection (b)”.
(b) FTC ACT.—Section 5(a)(2) of the Federal Trade Commission Act (15 U.S.C. 45(a)(2)) is amended by striking “common carriers subject” and inserting “common carriers, except for railroads, subject.”

SEC. 6. EXEMPTIONS FROM APPLICATION OF TREBLE DAMAGES TO RAIL COMMON CARRIERS.
Section 4 of the Clayton Act (15 U.S.C. 15) is amended by inserting “subject to jurisdiction under the Surface Transportation Board under subtitle IV of title 49, United States Code” after “Commission, Board, or Secretary.”

SEC. 7. TERMINATION OF EXEMPTIONS IN TITLE 49.
(a) IN GENERAL.—Section 10706 of title 49, United States Code, is amended—
(1) redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and
(2) inserting after subsection (a) the following:
“(b) Subsection (a) shall apply to a common carrier by railroad subject to the jurisdiction of the Surface Transportation Board under subtitle IV of title 49, United States Code, without regard to whether such railroads have filed rates or whether a complaint challenging a rate has been filed.”

SEC. 8. EFFECTIVE DATE.
(a) IN GENERAL.—Subject to the provisions of subsection (b), this Act shall take effect on the date of enactment of this Act.
(b) CONDITIONS.—
(1) PREVIOUS CONDUCT.—A civil action under section 4, 15, or 16 of the Clayton Act (15 U.S.C. 15, 25, 26) or complaint under section 5 of the Federal Trade Commission Act (15 U.S.C. 45) may not be filed with respect to any conduct or activity that occurred prior to the date of enactment of this Act that was previously exempted from the antitrust laws as defined in section 1 of the Clayton Act (15 U.S.C. 12) by orders of the Interstate Commerce Commission or the Surface Transportation Board issued pursuant to law.

(2) GRAVE PERIOD.—A civil action or complaint described in paragraph (1) may not be filed with respect to any previously exempted conduct or activity or
By Mr. INOUYE (for himself, Ms. SNOWE, and Mr. VITTER):

S. 50. A bill to strengthen Federal consumer product safety programs and activities with respect to commercially distributed seafood by directing the Secretary of Commerce to coordinate with the Federal Trade Commission and other appropriate Federal agencies to strengthen and coordinate those programs and activities; to the Committee on Commerce, Science, and Transportation.

Mr. INOUYE. I am pleased to introduce my Commercial Seafood Consumer Protection Act, Seafood Safety Act. The Seafood Safety Act will strengthen the relationship between the Secretary of Commerce, the Secretary of Health and Human Services, HHS, the Secretary of the Department of Homeland Security, DHS, the Federal Trade Commission, FTC, and other appropriate Federal agencies, to coordinate Federal activities for ensuring that commercially distributed seafood in the United States meets the food quality and safety requirements of Federal law. The bill provides for no new jurisdiction, does not alter any existing jurisdiction given to FDA or any other agency. The bill does not include any authorization of appropriations, but seeks only to strengthen existing partnerships and share information.

The bill remains largely unchanged since I first introduced it in the 110th Congress, but this version, like the one I introduced in the 111th, incorporates the FTC as an additional partner between the agencies they have broad existing authority for consumer and interstate commerce fraud issues.

Specifically, the bill requires the Secretaries of Commerce, HHS, DHS, and the FTC to enter into agreements as necessary to strengthen cooperation on seafood safety, seafood labeling, and seafood fraud. Those agreements must address seafood testing and inspection; data standardization for seafood names; data coordination for the exportation, transportation, sale, harvest, or trade of seafood; seafood labeling compliance assurance; and information-sharing for observed non-compliance. The bill also increases the number of laboratories certified to inspection standards of the FDA and allows the Secretary of Commerce to increase the number and capacity of NOAA laboratories responsible for seafood safety testing. It allows for an increase in the percentage of seafood import shipments tested and inspected to improve detection of violations. Finally, the bill allows the Secretary of HHS to refuse entry of seafood imports from countries with known violations, and also allows the Secretary to permit individual seafood shipments from recognized and properly certified exporters. For the safety of the American people, I remain committed to the Seafood Safety Act and look forward to continuing to work to ensure its passage. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 50

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

SEC. 1. SHORT TITLE.

This Act may be cited as the “Commercial Seafood Consumer Protection Act”.

SEC. 2. COORDINATED SEAFOOD CONSUMER PROTECTION SAFETY NET.

(a) In General.—The Secretary of Commerce shall, in coordination with the Federal Trade Commission and other appropriate Federal agencies, and consistent with international and national laws of the United States, strengthen Federal consumer protection activities for ensuring that commercially-distributed seafood in the United States meets the food quality and safety requirements of applicable Federal laws.

(b) INTERAGENCY AGREEMENTS.—

(1) IN GENERAL.—Within 180 days after the date of enactment of this Act, the Secretary and other appropriate Federal agencies shall execute Memoranda of Understanding to strengthen interagency cooperation on seafood safety, seafood labeling, and seafood fraud.

(2) SCOPE OF AGREEMENTS.—The agreements shall include provisions, as appropriate for each such agreement, for—

(A) cooperative arrangements for examining and testing seafood imports that leverage existing resources, capabilities, and authorities of each party to the agreement;

(B) coordination of inspections of foreign countries and exporters that increase the percentage of imported seafood and seafood facilities inspected;

(C) standardizing data on seafood names, inspection and testing, and documentation testing to improve interagency coordination;

(D) coordination of the collection, storage, analysis, and dissemination of all applicable information, data related to the importation, exportation, transportation, sale, harvest, processing, or trade of seafood in order to detect and investigate violations under Federal laws, and to carry out the provisions of this Act;

(E) developing a process for expediting importation of seafood into the United States from foreign countries and exporters that consistently adhere to the highest standards for ensuring seafood safety;

(F) coordination to track shipments of seafood in the distribution chain within the United States;

(G) enhancing labeling requirements and methods of assuring compliance with such requirements and preventing species fraud and prevent fraudulent practices;

(H) a process by which officers and employees of the National Oceanic and Atmospheric Administration may be commissioned by the head of any other appropriate Federal agency to conduct or participate in seafood examinations and investigations under applicable Federal laws administered by such other agency;

(I) the sharing of information concerning observed non-compliance with United States food safety and labeling laws and in other Federal, and in other Federal, and non-Federal, and in other non-Federal, jurisdiction, which may affect regulatory outcomes;

(j) conducting joint training on subjects that affect and strengthen seafood inspection effectiveness by Federal agencies;

(k) sharing, to the maximum extent allowable by law, all applicable information, intelligence, and data related to the importation, exportation, transportation, sale, harvest, processing, or trade of seafood, to detect and investigate violations under applicable Federal laws, or otherwise to carry out the provisions of this Act; and

(l) outreach to seafood industry, laboratories, and the public on Federal efforts to enhance seafood safety and compliance with labeling requirements, including education on Federal requirements for seafood safety and labeling and information on how these entities can work with Federal agencies to improve seafood inspection and assist in detecting and preventing seafood fraud and mislabeling.

(3) detailed information on the enforcement and consumer outreach activities undertaken by the National Oceanic and Atmospheric Administration and the Federal Trade Commission can work together more effectively to address fraud and unfair or deceptive acts or practices with respect to seafood;

(3) an examination of the scope of unfair or deceptive acts or practices in the United States market with respect to foods other than seafood and whether additional enforcement authority or activity is warranted;

(4) annual reports on implementation of agreements.

(4) MARKETING, LABELING, AND FRAUD REPORT.—Within 1 year after the date of enactment of this Act, the Secretary and the Chairman of the Federal Trade Commission shall submit a joint report to the Congress on the Federal Trade Commission and the Federal Trade Commission for the year proceeding the year of the enactment of this Act, and any subsequent to the date of enactment of this Act, the Secretary of Commerce and the Secretary of Health and Human Services shall submit a joint report to the Congress concerning the implementation of any such agreement or agreements, including the extent to which the Food and
Drug Administration has taken into consider-
information resulting from inspections conducted by the Department of Com-
merce in making risk-based determinations such as the establishment of inspection par-
tories for domestic and foreign facilities and the examination and testing of imported sea-
food.

3. COORDINATION WITH SIA GRANT PRO-
gram.—The Administrator of the National Oceanic and Atmospheric Administration shall ensure that the NOAA Seafood Inspection Program is coordinated with the Sea Grant Program to provide outreach to States, consumers, and the seafood industry on seafood testing, seafood labeling, and sea-
food safety and appropriate strategies to combat mislabeling and fraud.

SEC. 3. CERTIFIED LABORATORIES.

Within 180 days after the date of enact-
ment of this Act, the Secretary, in consulta-
tion with the Secretary of Health and Human Services, shall increase the number of laboratories certified to the standards of the Food and Drug Administration in the United States and in countries that export seafood to the United States for the purpose of analyzing seafood and ensuring that the labora-
tories operated by the National Oceanic and At-
mospheric Administration, Federal laws. Within 1 year after the date of enact-
mation of this Act, the Secretary of Com-
merce shall publish in the Federal Register a list of certified laboratories. The Secretary shall update and publish the list no less fre-
quently than once a year.

SEC. 4. NOAA LABORATORIES.

In any fiscal year beginning after the date of enact-
mation of this Act, the Secretary may increase the capacity of labora-
tories operated by the National Oceanic and At-
mospheric Administration involved in car-
rying out testing and other activities under this Act that the Secretary de-
termines that increased laboratory capacity is necessary to carry out the provisions of this Act and as provided for in appropri-
ations Acts.

SEC. 5. CONTAMINATED SEAFOOD.

(a) REFUSAL OF ENTRY.—The Secretary of Health and Human Services may issue an order refusing admission into the United States of all imports of seafood or seafood products originating from a country or ex-
porter if the Secretary determines that ship-
ments of seafood or seafood products from that country or exporter do not meet the requirements established under applicable Federal law.

(b) FEE PAYMENT.—If the Secretary of Health and Human Services determines that seafood imports originating from a country may not meet the requirements of Federal law, and determines that there is a lack of adequate certified laboratories to provide for the entry of shipments pursuant to section 3, then the Secretary may order an increase in the fees charged to the entry of seafood originating from such country to improve detection of potential violations of such require-
ments.

(c) LAWMAKING OF INDIVIDUAL SHIPMENTS FROM EXPORTING COUNTRY OR EXPORTER.—Notwithstanding an order under subsection (a), the Secretary may permit individual shipments of seafood origi-
nating in that country or from that exporter to be admitted into the United States if:

(1) the exporter presents evidence from a laboratory certified by the Secretary that a shipment of seafood meets the requirements of applicable Federal laws; and

(2) the Secretary, or other agent of a Fed-
eral agency authorized to conduct inspec-
tions of seafood, has inspected the shipment and found the shipment to meet the conditions of manufacturing meet the re-
quirements of applicable Federal laws.

(d) CANCELLATION OF ORDER.—The Sec-
retary may cancel an order under subsection (a) with respect to seafood exported from a country or exporter if all shipments into the United States of seafood originating in that country or from that ex-
porter more than 1 year after the date on which the Secretary issued the order have been determined by the Secretary to meet the requirements of Federal law.

(e) EFFECT.—This section shall be in addi-
tion to, and shall have no effect on, the au-
thority of the Secretary of Health and Human Services under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) with respect to seafood, seafood products, or seafood by-products.

SEC. 6. INSPECTION TEAMS.

(a) INSPECTION OF FOREIGN SITES.—The Secretary, in cooperation with the Secretary of Health and Human Services, may send 1 or more inspectors to a country or exporter from which seafood exported to the United States originates. The inspection team shall:

(1) conduct an inspection of facilities being used in connection with the farming, cultivation, harvesting, preparation for market, or trans-
portation of such seafood and may provide technical assistance in establish-
ing the requirements established under applicable Federal laws to address seafood fraud and safety.

(b) DISTRIBUTION AND USE OF REPORT.—The Secretary shall provide the report to the Secretary of Commerce with its findings. The Secretary of Commerce shall make a copy of the report available to the country or exporter and provide a 30-day period during which the country or exporter may provide a rebuttal or other comments on the findings to the Secretary.

SEC. 7. SEAFOOD IDENTIFICATION.

(a) STANDARDIZED LIST OF NAMES FOR SEA-
FOOD.—The Secretary and the Secretary of Health and Human Services shall, within 1 year after the date of enact-
mation of this Act, publish in the Federal Register a list of standardized names for seafood, which list of standardized names shall be made available to the public on Department of Health and Human Services and the Department of Commerce websites, shall be open to public review and comment, and may be updated annually.

(b) PUBLICATION OF LIST.—The list of stand-
ardized names shall include or otherwise take into account taxonomy, current labeling reg-
ulations, international law and custom, mar-
et value, and naming precedence for all seafood identified by the list.

(c) REQUIREMENTS FOR LIST.—The list of standardized names may include names, whether similar to existing or commonly used names for spe-
cies, that are likely to confuse or mislead consumers.

SEC. 8. DEFINITIONS.

In this Act:

(1) APPLICABLE FEDERAL LAWS.—The term “applicable laws and regulations” means Federal statutes, regulations, and inter-
national agreements pertaining to the im-
portation, transportation, sale, harvest, processing, or trade of seafood, in-
cluding the Magnuson-Stevens Fishery Con-
servation and Management Act, section 801 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381), section 203 of the Food Aller-
gen Labeling and Consumer Protection Act of 2004 (21 U.S.C. 374a), and the Seafood Haz-
ard Analysis and Critical Control Point regu-

(2) APPROPRIATE FEDERAL AGENCIES.—The term “appropriate Federal agencies” in-
cludes the Department of Health and Human Services, the Federal Food and Drug Admin-
istration, the Department of Homeland Secu-
rity, and the Department of Agriculture.

(3) SECRETARY.—The term “Secretary” means the Secretary of Commerce.

By Mr. INOUEY for himself, Mr. ROCKEFEELLER, Mr. KERRY, Ms. SNOWE, and Ms. CANTWELL:

S. 52. A bill to establish uniform ad-
ministrative and enforcement proce-
dures and penalties for the enforce-
ment of the High Seas Driftnet Fishing Moratorium Protection Act and simi-
lar statutes, and for other purposes; to
make technical, conforming, and minor statu-
short corrections to the Magnuson-Stevens Fishery Con-
servation and Management Act, and for other purposes.

January 25, 2011
There be no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 52

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “International Fisheries Stewardship and Enforcement Act”.

(b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Authority of the Secretary to enforce statutes.
Sec. 3. Conforming, minor, and technical amendments.
Sec. 4. Illegal, unreported, or unregulated fishing.
Sec. 5. Liability.

TITLE II—ENFORCEMENT AND INTERNATIONAL OPERATIONS

Sec. 201. International fisheries enforcement program.
Sec. 202. International cooperation and assistance program.

TITLE III—MISCELLANEOUS AMENDMENTS

Sec. 301. Atlantic Tunas Convention Act of 1975.
Sec. 302. Data Sharing.
Sec. 304. Committee on Scientific Cooperation for Pacific Salmon Agreement.
Sec. 305. Reauthorizations.

TITLE IV—IMPLEMENTATION OF CONVENTION

Sec. 401. Short title.
Sec. 402. Amendment of the Tuna Convention Act of 1950.
Sec. 403. Definitions.
Sec. 404. Committee on scientific cooperation and management of fishery resources.
Sec. 405. General advisory committee and scientific advisory subcommittee.
Sec. 406. Rulemaking.
Sec. 407. Prohibited acts.
Sec. 408. Enforcement.
Sec. 409. Reduction by bycatch.

TITLE V—ADMINISTRATION AND ENFORCEMENT OF CERTAIN FISHERY AND RELATED STATUTES

SEC. 101. AUTHORITY OF THE SECRETARY TO ENFORCE STATUTES.

(a) In General.—

(1) Enforcement of Statutes.—The Secretary of Commerce and the Secretary of the department in which the Coast Guard is operating shall enforce the statutes to which this section applies in accordance with the provisions of this section.

(2) Utilization of Nondepartmental Resources.—The Secretary may, by agreement, on a reimbursable basis or otherwise, utilize the personnel services, equipment (including aircraft and vessels), and facilities of any other Federal agency, including all elements of the Department of Defense, and of any State agency, in carrying out this section.

(b) Statutes to Which Applicable.—This section applies to—

(A) the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826d et seq.);
(B) the Pacific Salmon Treaty Act of 1985 (16 U.S.C. 3601 et seq.);
(C) the North Pacific Anadromous Stocks Conservation Act of 1990 (16 U.S.C. 2001 et seq.);
(D) the Tuna Conventions Act of 1950 (16 U.S.C. 951 et seq.);
(E) the North Pacific Anadromous Stocks Act of 1992 (16 U.S.C. 5001 et seq.);
(F) the South Pacific Tuna Act of 1984 (16 U.S.C. 973 et seq.);
(G) the Antarctic Marine Living Resources Convention Act of 1986 (16 U.S.C. 2431 et seq.);
(H) the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971 et seq.);
(I) the Northwest Atlantic Fisheries Convention Act and Management Act (16 U.S.C. 6501 et seq.);
(J) the Western and Central Pacific Fisheries Convention Implementation Act (16 U.S.C. 6601 et seq.);
(K) the Northern Pacific Halibut Act of 1982 (16 U.S.C. 773 et seq.);
(L) any other Act in pari materia, so designated by the Secretary after notice and an opportunity for a hearing; and
(M) the Antigua Convention Implementing Act of 2011.

(b) Administration and Enforcement.—The Secretary shall prevent any person from violating any Act to which this section applies in the same manner, by the same means, and with the same amount of the civil penalties, and duties as though sections 307 through 311 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1857 through 1861) were incorporated into and made a part of each such Act.

(c) Special Rules.—

(1) In General.—Notwithstanding the incorporation by reference of certain sections of the Magnus-Stevens Fishery Conservation and Management Act under subsection (b), if there is a conflict between a provision of this subsection and the corresponding provision of any section of the Magnus-Stevens Fishery Conservation and Management Act so incorporated, the provision of this subsection shall apply.

(2) Civil Administrative Enforcement.—The amount of the civil penalty for a violation of any Act to which this section applies shall not exceed $250,000 for each violation. Each day of a continuing violation shall constitute a separate violation.

(3) Civil Judicial Enforcement.—The Attorney General, upon the request of the Secretary, may commence a civil action in an appropriate district court of the United States to enforce this Act and any Act to which this Act applies. In making such suit, such court shall have jurisdiction to award civil penalties or such other relief as justice may require, including a permanent or temporary injunction, and to enjoin the violation of any Act to which this section applies shall not exceed $250,000 for each violation. Each day of a continuing violation shall constitute a separate violation. In determining the amount of a civil penalty, the court shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior violations and such other matters as justice may require. In imposing such a penalty, the court may also consider information related to the ability of the violator to pay.

(4) Criminal Finnes and Penalties.

(A) In General.—Any person, including any corporation by reference of certain sections of the Antigua Convention Implementing Act (16 U.S.C. 2431 et seq.), any other Act in pari materia, so designated by the Secretary after notice and an opportunity for a hearing; and

(B) In the case of any other person, by a fine of not more than $500,000, imprisonment for not more than 5 years, or both; and

(B) In the case of any other person, by a fine of not more than $1,000,000.

(6) Criminal Forfeitures.—

(A) In General.—Any person found guilty of an offense described in subsection (e), or who is convicted of a criminal violation of any Act to which this section applies, shall forfeit to the United States—

(i) any property, real or personal, used or intended to be used to commit or to facilitate the commission of the offense, including any shoreside facility, including its conveyances, structure, equipment, furniture, appurtenances, stores, and cargo;

and

(B) Procedure.—Pursuant to section 921(c) of title 28, United States Code, the provisions of section 413 of the Controlled Substances Act (21 U.S.C. 853), other than subsection (d) thereof, shall apply to criminal forfeitures under this section.

(7) Additional Enforcement Authority.—In addition to the powers of officers authorized pursuant to subsection (b), any officer who is authorized by the Secretary, or the head of any Federal or State agency that has entered into an agreement with the Secretary under subsection (a) to enforce this Act, and any officer who violates any provision of any Act to which this section applies may, with the same jurisdiction, powers, and duties as though section 311 of the Magnus-Stevens fishery Conservation and Management Act so incorporated were incorporated into and made a part of each such Act—

(A) search or inspect any facility or conveyances used or employed in, or which reasonably appears to be used or employed in, the storage, processing, transport, or trade of fish or fish products;

(B) detain, for a period of up to 14 days, any shipment of fish or fish product imported into, landed on, introduced into, exported from, or transported within the jurisdiction of the United States, or, if such fish or fish product is deemed to be perishable, sell and retain the proceeds therefrom for a period of up to 14 days; and

(D) make an arrest, in accordance with any guidelines which may be prescribed by the Attorney General, for any offense under any law of the United States committed in the person’s presence, or for the commission of any offense under any law of the States, if the person has reasonable grounds to believe that the person to be arrested has committed

There be no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 52

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
or is committing a felony; may search and seize, in accordance with any guidelines which may be issued by the Attorney General and may execute and serve any such subpoena. Section 553(a)(2) and (3) of the United States Code, as may be necessary to carry out this section or any Act to which this section applies.

SEC. 102. CONFORMING, MINOR, AND TECHNICAL AMENDMENTS.

(a) HIGH SEAS DRIFTNET FISHING MORATORIUM PROTECTION ACT.—

(1) Section 606 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826h) is amended—

(A) by inserting “DISTRICT, MONITORING, AND PREVENTING VIOLATIONS.” before “the President”; and

(B) by adding at the end thereof the following:

“(b) ENFORCEMENT.—This Act shall be enforced under section 101 of the International Fisheries Stewardship and Enforcement Act.”.

(2) Section 607(2) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826h(2)) is amended by striking “whose vessels” and inserting “that”.

(3) Section 609(a) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826h(a)) is amended to read as follows:

“(a) IDENTIFICATION.—

“(1) IN GENERAL.—The Secretary shall identify, by name, any vessel or nation or the location where harvested any fish or fish product (including the vessel or nation or the location where harvested any fish or fish product harvested under section 607, a nation if that nation is engaged, or has been engaged at any time during the preceding 3 years, in illegal, unreported, or unregulated fishing activity by vessels of that nation, or the nation is not a party to, or does not maintain cooperating status with, such organization; or

“(B) the relevant international fishery management organization has failed to implement effective measures to end the illegal, unreported, or unregulated fishing activity by vessels of that nation, or the nation is a party to, or does not maintain cooperating status with, such organization; or

“(C) there is no international fishery management organization with a mandate to regulate the fishing activity in question.

“(2) OTHER IDENTIFYING ACTIVITIES.—The Secretary shall also list in the report under section 607, a nation if—

“(A) it is violating, or has violated at any time during the preceding 3 years, conservation and management measures required under an international fishery management agreement to which the United States is a party; or

“(B) by striking “search, investigation, or inspection” and inserting “procedure for certification, and inserting “procedure’’; and

“(C) by striking “basis, for allowing importation of fish’’ and inserting “purposes’’.

(b) ENFORCEMENT.—This Act shall be enforced under section 101 of the International Fisheries Stewardship and Enforcement Act.

(c) TUNA CONVENTIONS ACT OF 1950.—Section 810 of the Tuna Conventions Act of 1950 (16 U.S.C. 957) is amended by striking “purposes” in subsection (a) and inserting “purposes or for any person to make or submit any false record, account, or label for, or any false identification of fish or fish product (including the false identification of species, harvesting vessel or nation or the location where harvested) which has been, or is intended to be imported, exported, transported, sold, offered for sale, purchased, or received in interstate or foreign commerce.”;

(3) by striking subsection (d) and inserting the following:

“(d) It shall be unlawful for any person—

“(1) to refuse to permit any officer authorized under this Act to board a fishing vessel subject to such person’s control for purposes of conducting any search, investigation, or inspection in connection with the enforcement of this Act or any regulation promulgated or permit issued under this Act;

“(2) to forcibly assault, resist, oppose, intimidate, or interfere with any such authorized officer in the conduct of any search, investigation, or inspection described in paragraph (2); or

“(3) to resist a lawful arrest for any act prohibited by this section or any Act to which this section applies or any regulation promulgated thereunder;

“(4) to interfere with, delay, or prevent, by any means, the apprehension, arrest, or detention of another person, knowing that such person has committed any act prohibited by this section or any Act to which this section applies; or

“(5) to forcibly assault, resist, oppose, intimidate, or interfere with any observer on a vessel under this section or any Act to which this section applies, or any data collector employed by or under contract to the National Marine Fisheries Service to carry out responsibilities under this section or any Act to which this section applies;

“(6) to import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce any fish or fish product taken, possessed, transported, or sold in violation of any treaty or binding conservation measure adopted pursuant to an international agreement or organization to which the United States is a party; or

“(7) to import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce any fish or fish product (including false identification of the species, harvesting vessel or nation or the location where harvested) which has been, or is intended to be imported, exported, transported, sold, or offered for sale, purchased, or received in interstate or foreign commerce;

“(8) to make or submit any false record, account, or label for, or any false identification of, any fish or fish product (including false identification of the species, harvesting vessel or nation or the location where harvested) which has been, or is intended to be imported, exported, transported, sold, or offered for sale, purchased, or received in interstate or foreign commerce; and

“(9) to import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce any fish or fish product (including false identification of the species, harvesting vessel or nation or the location where harvested) which has been, or is intended to be imported, exported, transported, sold, or offered for sale, purchased, or received in interstate or foreign commerce.”;

(4) by striking subsections (e) through (g) and redesignating subsection (h) as subsection (e); and

(5) by inserting after subsection (d) the following:

“(e) ENFORCEMENT.—This section shall be enforced under section 101 of the International Fisheries Stewardship and Enforcement Act.

(d) NORTHERN PACIFIC ANADROMOUS STOCKS ACT OF 1992.—

(1) UNLAWFUL ACTIVITIES.—Section 810 of the Northern Pacific Anadromous Stocks Act of 1992 (16 U.S.C. 5099) is amended by striking “purposes” in paragraph (5) and inserting “purposes or for any person to make or submit any false record, account, or label for, or any false identification of fish or fish product (including the false identification of species, harvesting vessel or nation or the location where harvested) which has been, or is intended to be imported, exported, transported, sold, offered for sale, purchased, or received in interstate or foreign commerce.”;

(2) by inserting “purposes or for any person to make or submit any false record, account, or label for, or any false identification of fish or fish product (including the false identification of species, harvesting vessel or nation or the location where harvested) which has been, or is intended to be imported, exported, transported, sold, offered for sale, purchased, or received in interstate or foreign commerce.”;

(3) by striking “purposes or for any person to make or submit any false record, account, or label for, or any false identification of fish or fish product (including the false identification of species, harvesting vessel or nation or the location where harvested) which has been, or is intended to be imported, exported, transported, sold, offered for sale, purchased, or received in interstate or foreign commerce.”;

(d) NORTHERN PACIFIC ANADROMOUS STOCKS ACT OF 1992.—

(1) UNLAWFUL ACTIVITIES.—Section 810 of the Northern Pacific Anadromous Stocks Act of 1992 (16 U.S.C. 5099) is amended—

(A) by striking “purposes’’;

(B) by striking “search, investigation, or inspection’’ and inserting “search, investigation, or inspection’’; and

(c) by striking “purposes’’.

(2) by striking “search, investigation, or inspection’’ and inserting “search, investigation, or inspection’’;
(D) by striking "or" after the semicolon in paragraph (8); and
(E) by striking "title." in paragraph (9) and inserting "title; or;" and
(F) by adding at the end thereof the following:
(10) for any person to make or submit any false record, account, or label for, or any false identification of, any fish or fish product (including false identification of the species, harvesting vessel or nation, or the location where harvested) which has been, or is intended to be imported, exported, transported, sold, offered for sale, purchased, or received in interstate or foreign commerce.

SEC. 811. ADMINISTRATION AND ENFORCEMENT.

"This Act shall be enforced under section 101 of the International Fisheries Stewardship and Enforcement Act.

(e) Pacific Salmon Treaty Act of 1985.—Section 8 of the Pacific Salmon Treaty Act of 1985 (16 U.S.C. 3637) is amended—

(1) by striking "search or inspection" in subsection (a) and inserting "search, investigation, or inspection";

(2) by striking "search or inspection" in subsection (b) and inserting "search, investigation, or inspection";

(3) by striking "or" after the semicolon in subsection (a)(2);

(4) by striking "section." in subsection (a)(6) and inserting "section; or;"

(5) by adding at the end of subsection (a) the following:

(7) for any person to make or submit any false record, account, or label for, or any false identification of, any fish or fish product (including false identification of the species, harvesting vessel or nation, or the location where harvested) which has been, or is intended to be imported, exported, transported, sold, offered for sale, purchased, or received in interstate or foreign commerce.

and

(6) by striking subsections (b) through (f) and inserting the following:

"(b) ADMINISTRATION AND ENFORCEMENT.—This Act shall be enforced under section 101 of the International Fisheries Stewardship and Enforcement Act.

(f) South Pacific Tuna Act of 1988.—

(1) Prohibited acts.—Section 5(a) of the South Pacific Tuna Act of 1988 (16 U.S.C. 973a(a)) is amended—

(A) by striking "search or inspection" in paragraph (8) and inserting "search, investigation, or inspection";

(B) by striking "search or inspection" in paragraph (10)(A) and inserting "search, investigation, or inspection";

(C) by striking "or" after the semicolon in paragraph (10)(C); and

(D) by striking " retained." in paragraph (13) and inserting "retained; or;" and

(E) by adding at the end thereof the following:

(14) for any person to make or submit any false record, account, or label for, or any false identification of, any fish or fish product (including false identification of the species, harvesting vessel or nation, or the location where harvested) which has been, or is intended to be imported, exported, transported, sold, offered for sale, purchased, or received in interstate or foreign commerce.

(2) Administration and enforcement.—The South Pacific Tuna Act of 1988 (16 U.S.C. 973 et seq.) is amended—

(A) by redesigning sections 308 and 309 (16 U.S.C. 2387 and 2388) as sections 308A and 309A, respectively;

(B) by striking subsection (b), (c), and (d) of section 307 (16 U.S.C. 2389) and redesignating subsections (e) through (g) as subsections (c) through (e), respectively;

(C) by striking "suspension, on" in paragraphs (1)(C), (2)(B), (3)(B), (4)(B), and (5)(B) and inserting "suspension of";

(D) by adding at the end thereof the following:

(15) to make or submit any false record, account, or label for, or any false identification of, any fish or fish product (including false identification of the species, harvesting vessel or nation, or the location where harvested) which has been, or is intended to be imported, exported, transported, sold, offered for sale, purchased, or received in interstate or foreign commerce.

(k) Northern Pacific Halibut Act of 1982.—

(1) Prohibited acts.—Section 7 of the Northern Pacific Halibut Act of 1982 (16 U.S.C. 773b) is amended—

(A) by redesigning subdivisions (a) and (b) as paragraphs (1) and (2), respectively, and subdivisions (1) through (6) of paragraph (1), as redesignated, as subparagraphs (A) through (F), respectively;

(B) by striking "search, investigation, or inspection" in paragraph (1)(B), as redesignated, and inserting "search, investigation, or inspection";

(C) by striking subsection (a) of section 8 of the Atlantic Tuna Conventions Act of 1975 (16 U.S.C. 971) and inserting the following:

"SEC. 7. Administration and Enforcement.

This Act shall be enforced under section 101 of the International Fisheries Stewardship and Enforcement Act.

(a) Antarctic Marine Living Resources Convention Act of 1984.—

(1) Unlawful activities.—Section 306 of the Antarctic Marine Living Resources Convention Act (16 U.S.C. 973 et seq.) is amended—

(A) by striking "which he knows, or reasonably should have known, was" in paragraph (3);

(B) by striking "search or inspection" in paragraph (4) and inserting "search, investigation, or inspection";

(C) by striking "search or inspection" in paragraph (5) and inserting "search, investigation, or inspection";

(D) by striking "or" after the semicolon in paragraph (6);

(E) by striking "section." in paragraph (7) and inserting "section; or;" and

(F) by adding at the end thereof the following:

(8) to make or submit any false record, account, or label for, or any false identification of, any fish or fish product (including false identification of the species, harvesting vessel or nation, or the location where harvested) which has been, or is intended to be imported, exported, transported, sold, offered for sale, purchased, or received in interstate or foreign commerce.

(2) Regulations.—Section 307 of the Antarctic Marine Living Resources Convention Act (16 U.S.C. 2386) is amended by inserting after subsection (b) the following:

(2) Regulations. Section 307 of the Antarctic Marine Living Resources Convention Act (16 U.S.C. 2386) is amended by inserting after subsection (b) the following:

(b) Administration and Enforcement.—This title shall be enforced under section 101 of the International Fisheries Stewardship and Enforcement Act.

(j) Western and Central Pacific Fisheries Convention Implementation Act.—

(1) Administration and enforcement.—Section 506(c) of the Western and Central Pacific Fisheries Convention Implementation Act (16 U.S.C. 6906(c)) is amended to read as follows:

(1) Administration and Enforcement.—This title shall be enforced under section 101 of the International Fisheries Stewardship and Enforcement Act.

(m) South Pacific Tuna Act of 1988.—

(1) Prohibited acts.—Section 5(a) of the South Pacific Tuna Act of 1988 (16 U.S.C. 973a(a)) is amended—

(A) by striking "search or inspection" in paragraph (8) and inserting "search, investigation, or inspection";

(B) by striking "search or inspection" in paragraph (10)(A) and inserting "search, investigation, or inspection";

(C) by striking "or" after the semicolon in paragraph (10)(C); and

(D) by striking " retained." in paragraph (13) and inserting "retained; or;" and

(E) by adding at the end thereof the following:

(15) for any person to make or submit any false record, account, or label for, or any false identification of, any fish or fish product (including false identification of the species, harvesting vessel or nation, or the location where harvested) which has been, or is intended to be imported, exported, transported, sold, offered for sale, purchased, or received in interstate or foreign commerce.

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(2) Administration and enforcement.—The South Pacific Tuna Act of 1988 (16 U.S.C. 973 et seq.) is amended—

(A) by redesigning sections 308 and 309 (16 U.S.C. 2387 and 2388) as sections 308A and 309A, respectively;

(B) by striking subsection (b), (c), and (d) of section 307 (16 U.S.C. 2389) and redesignating subsections (e) through (g) as subsections (c) through (e), respectively;

(C) by inserting after subsection (a) the following:

(b) Administration and Enforcement.—This title shall be enforced under section 101 of the International Fisheries Stewardship and Enforcement Act.

(a) Antartctic Marine Living Resources Convention Act of 1984.—

(1) Unlawful activities.—Section 306 of the Antarctic Marine Living Resources Convention Act (16 U.S.C. 973 et seq.) is amended—

(A) by striking "which he knows, or reasonably should have known, was" in paragraph (3);

(B) by striking "search or inspection" in paragraph (4) and inserting "search, investigation, or inspection";

(C) by striking "search or inspection" in paragraph (5) and inserting "search, investigation, or inspection";

(D) by striking "or" after the semicolon in paragraph (6);

(E) by striking "section." in paragraph (7) and inserting "section; or;" and

(F) by adding at the end thereof the following:

(8) to make or submit any false record, account, or label for, or any false identification of, any fish or fish product (including false identification of the species, harvesting vessel or nation, or the location where harvested) which has been, or is intended to be imported, exported, transported, sold, offered for sale, purchased, or received in interstate or foreign commerce.

(2) Regulations.—Section 307 of the Antarctic Marine Living Resources Convention Act (16 U.S.C. 2386) is amended by inserting after subsection (b) the following:

(b) Administration and Enforcement.—This title shall be enforced under section 101 of the International Fisheries Stewardship and Enforcement Act.

This Act shall be enforced under section 101 of the International Fisheries Stewardship and Enforcement Act.

(D) by striking “or” after the semicolon in paragraph (1)(E), as redesignated;

(E) by striking “section.” in paragraph (1)(F), as redesignated, and inserting “section.”;

(F) by adding at the end of paragraph (1), as redesignated, the following:

“(G) to make or submit any false record, accompanying documentation, or any other evidence identifying, any fish or fish product (including false identification of the species, harvesting vessel or nation, or the location where harvested) which has been, or is intended to be imported, exported, transported, sold, offered for sale, purchased, or received in interstate commerce.

(2) ADMINISTRATION AND ENFORCEMENT.—The Northern Pacific Halibut Act of 1982 (16 U.S.C. 773 et seq.) is amended—

(a) by striking subsections (B) and (C) of section 3, and inserting the following:


SEC. 103. ILLEGAL, UNREPORTED, OR UNREGULATED FISHING.

(a) In General.—Section 609 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826i), as amended by section 302(a) of this Act, is further amended by adding at the end of section 609(a)(5) the following:

“(c) VESSELS AND VESSEL OWNERS ENGAGED IN ILLEGAL, UNREPORTED, OR UNREGULATED FISHING.—The Secretary may—

“(1) develop, maintain, and make public a list of vessels and vessel owners engaged in illegal, unreported, or unregulated fishing, including vessel owners identified by an international fishery management organization or arrangement made pursuant to an international fishery agreement, whether or not the United States is a party to such organization or arrangement;

“(2) take appropriate action against listed vessels and vessel owners, including action against fish, fish parts, or fish products from such vessels, in accordance with applicable United States law and consistent with applicable international law, including principles, rights, and obligations established under applicable international fishery management and trade agreements; and

“(3) provide notice to the public of vessels and vessel owners identified by international fishery management organizations or arrangements made pursuant to an international fishery agreement as having engaged in illegal, unreported, or unregulated fishing, as well as any measures adopted by such organizations or arrangements to address illegal, unreported, or unregulated fishing.

“(d) RESTRICTIONS ON PORT ACCESS OR USE.—Nothing in subsection (c)(2) that includes measures to restrict use of or access to ports or port services shall apply to all ports of the United States, but shall apply to ports of the United States, as the Secretary determines necessary.

“(e) REGULATIONS.—The Secretary may promulgate regulations to implement subsections (c) and (d).

(b) ADDITIONAL MEASURES.—

(1) AMENDMENT OF THE HIGH SEAS DRIFTNET FISHING MORATORIUM PROTECTION ACT.—

(A) Section 609(a)(4) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826i(d)(3)) is amended by striking “that has not been certified by the Secretary under this subsection, or” in subparagraph (A)(i).

(B) Section 610(c)(5) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826c(d)(3)) is amended by striking “that has not been certified by the Secretary under this subsection, or”.

(2) AMENDMENT OF THE HIGH SEAS DRIFTNET FISHERIES ENFORCEMENT ACT.—

(A) Section 101 of the High Seas Driftnet Fisheries Enforcement Act (16 U.S.C. 1626a) is amended—

(i) by striking subsection (a)(2) and inserting the following:

“(2) DENIAL OF PORT PRIVILEGES.—The Secretary shall, in accordance with recognized principles of international law—

“(A) withhold or revoke the clearance required by section 6105 of title 46, United States Code, for—

“(i) any large-scale driftnet fishing vessel that is documented under the law of the United States or any nation included on a list published under section 610(d); or

“(ii) any fishing vessel of a nation that receives a negative certification under section 609(d) or 610(c) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826(d) or 1826c(k)); and

“(B) deny entry of that vessel to any place in the United States and to the navigable waters of the United States, except for the purpose of inspecting the vessel, conducting an investigation, or taking other appropriate enforcement action. (ii) by striking “illegal, unreported, or unregulated fishing” each place it appears in subsection (b)(1) and (2);”

(B) Section 102 of the High Seas Driftnet Fisheries Enforcement Act (16 U.S.C. 1826b) is amended by striking paragraph (1)(E), as redesignated:

(1) by striking subparagraph (E) and inserting “nation; or”;

(2) by striking paragraph (1)(F), as redesignated, and inserting “nation; or”;

(3) by adding at the end of paragraph (1), as redesignated, the following:

“(i) any large-scale driftnet fishing vessel that is documented under the law of the United States or any nation included on a list published under section 610(d); or

“(ii) any fishing vessel of a nation that receives a negative certification under section 609(d) or 610(c) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826(d) or 1826c(k)); and

“(B) deny entry of that vessel to any place in the United States and to the navigable waters of the United States, except for the purpose of inspecting the vessel, conducting an investigation, or taking other appropriate enforcement action.

(2) ADMINISTRATION AND ENFORCEMENT.—

(A) by striking sections 3, 9, and 10 (16 U.S.C. 1826k(c)(5)) is amended by striking

“(F), as redesignated, and inserting “section.”;

(B) by adding at the end of paragraph (1), as redesignated, the following:

“(ii) any fishing vessel of a nation that receives a negative certification under section 609(d) or 610(c) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826(d) or 1826c(k)); and

“(B) deny entry of that vessel to any place in the United States and to the navigable waters of the United States, except for the purpose of inspecting the vessel, conducting an investigation, or taking other appropriate enforcement action.

(2) ADMINISTRATION AND ENFORCEMENT.—

(A) by agreement, on a reimbursable basis or otherwise, participate in staffing the Program;

(B) by agreement, on a reimbursable basis or otherwise, share personnel, services, equipment (including aircraft and vessels), and facilities with the Program; and

(C) to the extent possible, and consistent with the purpose of the Program for the purposes of carrying out the provisions of this Act.

IV. INTERNATIONAL FISHERIES ENFORCEMENT PROGRAM.

TITLE I—LAW ENFORCEMENT AND INTERNATIONAL OPERATIONS.

SEC. 201. INTERNATIONAL FISHERIES ENFORCEMENT PROGRAM.

(a) ESTABLISHMENT.—(1) IN GENERAL.—Within 12 months after the date of the enactment of this Act, the Secretary shall, subject to the availability of appropriations, establish an International Fisheries Enforcement Program within the Office of Law Enforcement of the National Marine Fisheries Service.

(b) PROGRAM.—The Program shall be an interagency program established and administered by the Secretary in coordination with the heads of other departments and agencies providing staff for the Program such as the Department of Commerce, Customs and Border Protection, the Food and Drug Administration, and any other department or agency the Secretary determines necessary to detect and investigate illegal, unreported, or unregulated fishing activity and enforce the provisions of this Act.

(c) STAFF.—The Program shall be staffed with representation from the Coast Guard, Customs and Border Protection, the Food and Drug Administration, and any other department or agency the Secretary deems necessary to detect and investigate illegal, unreported, or unregulated fishing activity and enforce the provisions of this Act.

(d) PROCEDURES.—The Program may, upon receipt of any fishery law enforcement action.

(e) PROHIBITIONS.—The Program shall—

(1) to terminate large-scale driftnet fishing conducted by nations and vessels beyond the exclusive economic zone of any nation;

(2) to address illegal, unreported, or unregulated fishing activities for which a nation has been identified under section 609(d) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826(d)); and

(3) to address bycatch of a protected living marine resource.

(f) AUTHORIZATION.—The Program shall be authorized under any international fisheries enforcement program established and enforced by the United States, and the provisions of this Act shall govern the operation of the Program.

(g) LIABILITY.—Any claims arising from the actions of any officer, authorized by the Secretary to enforce the provisions of this Act or any Act to which this Act applies, or any other person working pursuant to any scheme for at-sea boarding and inspection authorized under any international agreement to which the United States is a party may be pursued under chapter 71 of title 28, United States Code, or such other legal authority as may be pertinent.

Any claims arising from the actions of any officer, authorized by the Secretary to enforce the provisions of this Act or any Act to which this Act applies, or any other person working pursuant to any scheme for at-sea boarding and inspection authorized under any international agreement to which the United States is a party may be pursued under chapter 71 of title 28, United States Code, or such other legal authority as may be pertinent.
(B) enter into agreements with other Federal, State, or local governments as well as with the governments of other nations, on a reimbursable basis or otherwise, for such purpose;

(c) Powers of Authorized Officers.—Notwithstanding any other provision of law, while operating under an agreement with the Secretary entered into under section 101 of this Act, and conducting joint operations as part of the Program for the purposes of detecting and investigating illegal, unreported, or unregulated fishing activity and enforcing the provisions of this Act, authorized officers shall have the powers and authority provided in that section.

(d) Information Collection, Maintenance and Use.—

(1) In General.—The Secretary and the heads of other departments and agencies providing staff for the Program shall, to the maximum extent allowable by law, share all applicable information, intelligence and data, related to the harvest, transportation or trade of fish and fish product in order to detect and investigate illegal, unreported, or unregulated fishing activity and to carry out the provisions of this Act.

(2) Coordination of Data.—The Secretary, through the Program, shall coordinate the collection, storage, analysis, and dissemination of all applicable information, intelligence, and data related to the harvest, transportation, or trade of fish and fish product collected or maintained by the member agencies of the Program.

(3) Confidentiality.—The Secretary, through the Program, shall ensure the protection and confidentiality required by law for information, intelligence, and data related to the harvest, transportation, or trade of fish and fish product obtained by the Program.

(4) Data Standardization.—The Secretary and the heads of other departments and agencies providing staff for the Program shall, to the maximum extent practicable, develop data standardization for fisheries related data for Program agencies and with international fisheries enforcement databases as appropriate.

(5) Assistance from Intelligence Community.—The Secretary and the heads of the secretaries of the departments of the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4))) shall collect information related to illegal, unreported, or unregulated fishing activity outside the United States about individuals who are not United States persons (as defined in section 105A(c)(2) of such Act (50 U.S.C. 403-5a(c)(2))). Such elements of the intelligence community shall collect and share such information with the Secretary through the Program for law enforcement purposes in order to detect and investigate illegal, unreported, or unregulated fishing activities and to carry out the provisions of this Act. All collection and sharing by the intelligence community shall be in accordance with the National Security Act of 1947 (50 U.S.C. 401 et seq.).

(6) Information Sharing.—The Secretary, through the Program, shall have authority to share fisheries-related data with other Federal or State government agency, foreign government, the Food and Agriculture Organization of the United Nations, or equivalent of an international fisheries management organization or arrangement made pursuant to an international fishery agreement, if such organizations or arrangements have policies and procedures to safeguard such information from unintended or unauthorized disclosure.

(i) to ensure compliance with any law or regulation enforced or administered by the Secretary;

(ii) to administer or enforce treaties to which the United States is a party;

(iii) to administer or enforce binding conservation measures adopted by any international organization or arrangement to which the United States is a party;

(iv) to assist in investigative, judicial, or administrative enforcement proceedings in the United States or in other nations to assist in enforcing any fisheries or living marine resource related law enforcement action undertaken by a law enforcement agency of a foreign government, or in relation to a legal proceeding undertaken by a foreign government.

(e) Authorization of Appropriations.—There are authorized to be appropriated $30,000,000 to the Secretary for each of fiscal years 2012 through 2017 to carry out this section.

SEC. 202. INTERNATIONAL COOPERATION AND ASSISTANCE PROGRAM.

(a) International Cooperation and Assistance Program.—The Secretary may establish an international cooperation and assistance program (including grants, loans, and technical assistance) to provide assistance for international capacity building efforts.

(b) Authorized Activities.—In carrying out the program established under subsection (a), the Secretary shall—

(1) provide funding and technical expertise to other nations to assist them in addressing illegal, unreported, or unregulated fishing activities;

(2) provide funding and technical expertise to other nations to assist them in reducing the loss and environmental impacts of illegal, unreported, or unregulated fishing activity and to promote international marine resource conservation;

(3) provide funding, technical expertise, and training to other nations to assist them in implementing the international Fisheries Enforcement Program under section 201 of this Act, to other nations to aid them in building capacity for enhanced fisheries management, fisheries monitoring, catch and trade tracking activities, enforcement, and international marine resource conservation;

(4) establish partnerships with other Federal agencies, as appropriate, to ensure that fisheries development assistance to other nations is directed toward projects that promote sustainable fisheries; and

(5) conduct outreach and education efforts in order to promote public and private sector awareness of the importance of sustainable fisheries, including the need to combat illegal, unreported, or unregulated fishing activity and to promote international marine resource conservation.

(c) Guidelines.—The Secretary may establish guidelines necessary to implement the program.

(d) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary $5,000,000 for each of fiscal years 2012 through 2017 to carry out this section.

TITLE III—MISCELLANEOUS AMENDMENTS

SEC. 301. ATLANTIC TUNAS CONVENTION ACT OF 1975.

(a) Elimination of Annual Report.—Section 11 of the Atlantic Tuna Conservation Act of 1975 (16 U.S.C. 971) is repealed.

(b) Certain Regulations.—Section 971(c)(2) of the Atlantic Tuna Conservation Act of 1975 (16 U.S.C. 971d(c)(2)) is amended—

(1) by inserting ‘‘(A)’’ after ‘‘(2)’’; and

(2) by striking ‘‘(A)’’ and inserting ‘‘(B)’’.

(c) Persons:—

(1) by striking ‘‘arguments, and (B) oral’’ and inserting ‘‘written or oral’’;

(2) by striking ‘‘(A)’’ after ‘‘(2)’’; and

(3) by striking ‘‘(A)’’ after ‘‘(2)’’ and inserting ‘‘(B)’’.

SEC. 302. DATA SHARING.

(a) High Seas Driftnet Fishing Moratorium Protection Act.—Section 608 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826) is amended—

(1) by inserting ‘‘(a)’’ before ‘‘The Secretary’’;

(2) by striking ‘‘organizations’’ the first place it appears and inserting, ‘‘organizations, or arrangements made pursuant to an international fishery agreement (as defined in section 3(24) of the Magnuson-Stevens Fishery Conservation and Management Act)’’;

(3) by striking ‘‘and’’ after the semicolon in paragraph (2)(C);

(4) by striking ‘‘territories.’’ in paragraph (3) and inserting ‘‘territories; and’’; and

(5) by adding at the end thereof the following:

‘‘(4) urging other nations, through the regional fishery management organizations of which the United States is a member, bilaterally and otherwise to seek and foster the sharing of accurate, relevant, and timely information to improve the scientific understanding of marine ecosystems;’’;

‘‘(B) to improve fisheries management decisions;’’;

‘‘(C) to promote the conservation of protected living marine resources;’’;

‘‘(D) to combat illegal, unreported, and unregulated fishing;’’ and

‘‘(E) to improve compliance with conservation and management measures in international waters.’’

(b) Information Sharing.—In carrying out this subsection, the Secretary may disclose, as necessary and appropriate, information to the Food and Agriculture Organization of the United Nations, international fishery management organizations, or arrangements made pursuant to an international fishery agreement, if such organizations or arrangements have policies and procedures to safeguard such information from unintended or unauthorized disclosure.

(c) Conforming Amendment.—Section 402(b)(1) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1881a(b)(1)) is amended—

(1) by striking ‘‘or’’ after ‘‘subgun’’; (2) redesignating subparagraph (H) as subparagraph (J); and

(3) by inserting after subparagraph (G) the following:

‘‘(H) to the Food and Agriculture Organization of the United Nations, international fishery management organizations, or arrangements made pursuant to an international fishery agreement, for in the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826(b));’’

‘‘(1) to any other Federal or State government agency, foreign government, the Food and Agriculture Organization of the United Nations, or the secretariat or equivalent of an international fisheries management organization, or arrangements made pursuant to an international fishery agreement, for in an international fishery agreement, as provided in section 201(d)(6) of the International
Fisheries Stewardship and Enforcement Act; or'.


Section 106 of the High Seas Fishing Compliance Act (16 U.S.C. 5503(c)) is amended to read as follows:

"(f) VALIDITY.—A permit issued under this section shall:

"(1) 1 or more permits or authorizations required for a vessel to fish, in addition to a permit issued under this section, expire, are revoked, or are modified by a United States documentation, such documentation is revoked or denied, or the vessel is deleted from such documentation; or

"(2) the vessel is no longer eligible for United States documentation, such documentation is revoked or denied, or the vessel is deleted from such documentation."

SEC. 304. COMMITTEE ON SCIENTIFIC COOPERATION FOR PACIFIC SALMON AGREEMENT.

Section 11 of the Pacific Salmon Treaty of 1985 (16 U.S.C. 3640) is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and inserting after subsection (b) the following:

"(c) SCIENTIFIC COOPERATION COMMITTEE.—

Members of the Committee on Scientific Cooperation who are not State or Federal employees shall receive compensation at a rate equivalent to the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, when engaged in actual performance of duties for the Commission.

SEC. 305. REAUTHORIZATIONS.

(a) INTERNATIONAL DOLPHIN CONSERVATION PROGRAM.—Section 306(c)(1) of the Marine Mammal Protection Act (16 U.S.C. 1314a(c)(1)) is amended by adding at the end thereof the following:

"(2) 2009 through 2013."

(b) PACIFIC SALMON TREATY ACT OF 1985.—


(c) SOUTH PACIFIC TUNA ACT OF 1988.—


TITLe IV—IMPLEMENTATION OF THE ANTIGUA CONVENTION

SEC. 401. SHORT TITLE.

This title may be cited as the "Antigua Convention Implementing Act of 2011."


Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Tuna Convention Act of 1985 (16 U.S.C. 851 et seq.).

SEC. 403. DEFINITIONS.

Section 2 (16 U.S.C. 851) is amended to read as follows:

"SEC. 2. DEFINITIONS.


"(2) COMMISSION.—The term ‘Commission’ means the Inter-American Tropical Tuna Commission as amended by the Convention.

"(3) CONVENTION.—The term ‘Convention’ means—"
Mr. INOUYE. Mr. President, foreign registered ships now carry 97 percent of the imports and exports moving in United States international trade. These foreign vessels are held to lower standards than United States registered ships, ships, virtually untaught. Their costs of operation are, therefore, lower than United States ship operating costs, which explains their 97 percent market share.

Seven years ago, it was necessary to help level the playing field for United States-flag ships that compete in international trade, Congress enacted, under the American Jobs Creation Act of 2004, Public Law 108–357, Subchapter B, a "tonnage tax" that is based on the tonnage of a vessel, rather than taxing international income at a 35 percent corporate income tax rate. However, during the House and Senate conference, language was included, which states that a United States vessel can not use the tonnage tax on international income if that vessel also operates in United States domestic commerce for more than 30 days per year. This 30-day limitation dramatically limits the availability of the tonnage tax for those United States ships that operate in both domestic and international trade and, accordingly, severely hinders their competitiveness in foreign commerce. It is important to recognize that ships operating in United States domestic trade already have significant cost disadvantages. Specifically, they are built in higher priced United States shipyards; do not receive Maritime Security Payments, even when operated in international trade; and are owned by United States-based American corporations. The inability of these domestic operators to use the tonnage tax for their international operations is a further, unnecessary burden on their competitive position in foreign commerce.

When windows of opportunity present themselves in international trade, American tax policy and maritime policy are not well aligned. After the expiration of these American-built ships, instead, the 30-day limitation makes them ineligible to use the tonnage tax, and further handicaps American vessels when competing for international cargo. Denying the tonnage tax to coastwise qualified ships further undermines the operation of American built ships in international commerce, and further exacerbates America's 97 percent reliance on foreign ships to carry its international commerce.

These concerns were of sufficient importance that in December 2006 Congress repealed the 30-day limitation on domestic trading—but only for approximately 50 ships operating in the Great Lakes. These ships primarily operate in domestic trade on the Great Lakes, but also carry cargo between the United States and Canada in international trade. Seven years ago, to modify the application of the tonnage tax on certain vessels; to the Committee on Finance.
ships that operate in domestic trade, but that may also operate temporarily in international trade, totals 13 United States flag vessels. These 13 ships normally operate in domestic trades that involve Washington, Oregon, California, Hawaii, Alaska, Florida, Mississippi, and Louisiana. In the interest of providing tax equity to the United States corporations that own and operate these 13 vessels, my bill would repeal the tonnage tax 30-day limit on domestic operations and enable these vessels to continue their tonnage tax payments for their international income so they receive the same treatment as other United States flag international operations.

I stress that, under my bill, these ships will continue to pay the normal 35 percent United States corporate tax rate on their domestic income.

Repeal of the tonnage tax’s 30-day limit on domestic operations is a necessary step toward providing tax equity between United States flag and foreign flag vessels. I strongly urge the tax writing committees of the U.S. Congress to give this legislation their expedited consideration and approval.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

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

SECTION 1. MODIFICATION OF THE APPLICATION OF THE TONNAGE TAX ON VESSELS OPERATING IN THE UNITED STATES DOMESTIC AND FOREIGN TRADES.

(a) In General.—Subsection (f) of section 1355 of the Internal Revenue Code of 1986 (relating to definitions and special rules) is amended to read as follows:

"(f) In General.—"In accordance with this subsection—a vessel qualified as a vessel qualifying as a qualified vessel in the United States for purposes of this subchapter—shall not be considered a vessel qualifying in accordance with the application of section 1357 or 1358.".

(b) Special Indentification.—Section 1355(c)(4) of the Internal Revenue Code of 1986 (relating to identification of credits, income, and deductions) is amended—

(1) Section 1355(a)(4) of the Internal Revenue Code of 1986 is amended by striking "exclusively"; and

(2) Section 1355(b)(1)(B) of such Code is amended by striking "as a qualifying vessel" and inserting "in the transportation of goods or passengers".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of enactment of this Act.

By Mr. INOUYE:

S. 59. A bill to treat certain hospital support organizations as qualified organizations for purposes of determining acquisition indebtedness; to the Committee on Finance.

Mr. INOUYE. Mr. President, the legislation I am reintroducing today will extend to qualified teaching hospital support organizations the existing debt-financed safe harbor rule. Congress has supported the teaching hospitals’ public service activities of tax-exempt schools, universities, pension funds, and consortia of such institutions. Our teaching hospitals require similar support.

As a result, for-profit hospitals are moving from older areas to affluent locations where residents can afford to pay for treatment. These private hospitals typically have no mandate for community service. In contrast, non-profit hospitals fulfill a community service requirement. They must stretch their resources to provide increased charitable care, update their facilities, and maintain skilled staffing resulting in closures of non-profit hospitals due to this financial strain.

The problem is particularly severe for teaching hospitals. Non-profit hospitals provide nearly all the post-graduate medical education in the United States. Post-graduate medical instruction is not profitable. Instruction in the treatment of mental disorders and trauma is especially costly.

Despite their financial problem, the nation’s non-profit hospitals strive to deliver a very high level of service. A study in the December 2006 issue of Archives of International Medicine had surveyed hospital’s quality of care in four areas of treatment. It found that non-profit hospitals consistently outperformed for-profit hospitals. The study also found that teaching hospitals had a higher level of performance in treatment and diagnosis, and that investments in technology and staffing leads to better care. In addition, it recommended that alternative payments and sources of payments be considered to finance these improvements.

The success and financial constraints of non-profit teaching hospitals is evident in work of the Queen’s Health Systems in my State. This 151-year-old organization maintains the largest, private, nonprofit hospital in Hawaii. The Queen’s Health Systems serve as the primary clinical teaching facility for the University of Hawaii’s medical residency program in medicine, general surgery, orthopedic surgery, pathology, psychiatry, and is a clinical teaching facility for obstetrics-gynecology. It conducts education and training programs for nurses and allied health personnel. The Queen’s Health Systems operate the only trauma unit as well as the chief behavioral health program in the State. It maintains clinics throughout Hawaii, health programs, for Native Hawaiian and other hospitals.

The Queen’s Health Systems annualy provides millions of dollars in uncompensated health services. To help pay for these community benefits, the Queen’s Health Systems, as other nonprofit teaching hospitals, relies significantly on income from its endowment.

In the past, the Congress has allowed tax-exempt colleges, universities, and pension funds to invest their endowment in real estate so as to better meet their financial needs. Under the tax code, these organizations can incur debt for real estate investments without triggering the tax on unrelated business activities.

If the Queen’s Health Systems were part of a university, it could borrow without incurring an unrelated business income tax. Not being part of a university, however, a teaching hospital and its support organization run into the tax code’s debt financing prohibition. Non-profit teaching hospitals have the same if not more pressing needs as that of universities, schools, and pension trusts. The same safe harbor rule should be extended to teaching hospitals.

My bill would allow the support organizations for qualified teaching hospitals to engage in limited borrowing to finance their endowments. The proposal for teaching hospitals is actually more restricted than current law for schools, universities and pension trusts. Under safeguards developed by the Joint Committee on Taxation staff, a support organization for a teaching hospital cannot buy and develop land on a commercial basis. The proposal is tied directly to the organization endowment. The staff’s revenue estimates show that the provision will not significantly increase the Federal deficit.

The U.S. Senate has several times before acted favorably on this proposal. The Senate adopted a similar provision in H.R. 1836, the Economic Growth and Tax Relief Act of 2001. The House conference on that bill, however; objected that the provision was unrelated to the bill’s focus on individual tax relief and the conference deleted the provision from the final legislation. Subsequently, the Finance Committee included the proposal in H.R. 7, the CARE Act of 2002, and in S. 476, the CARE Act of 2003, which the Senate passed. In a previous Congress’ S. 6, the
By Mr. INOUYE—S. 60. A bill to provide relief to the Pottawotami Nation in Canada for settlement of certain claims against the United States; to the Committee on the Judiciary.

Mr. President, nearly 16 years ago I stood before you to introduce a bill to provide relief to the Pottawotami Nation in Canada to have the merits of their claims against the United States Court of Federal Claims.

That bill was introduced as Senate Resolution 223, which referred the Pottawotami’s claim to the Chief Judge of the U.S. Court of Federal Claims and required the Chief Judge to report back to the Senate and provide sufficient findings of fact and conclusions of law to enable the Congress to determine whether the claim of the Pottawotami Nation in Canada is legal or equitable in nature, and the amount of damages, if any, which may be legally or equitably due from the United States.

Over a decade ago, the Chief Judge of the Court of Federal Claims reported back that the Pottawotami Nation in Canada had a credible legal claim. Thereafter, by settlement stipulation, the United States has taken the position that it would be “fair, just and equitable” to settle the claims of the Pottawotami Nation in Canada for the sum of $1,830,000. This settlement amount was reached by the parties after seven years of extensive, fact-intensive litigation. Independently, the court concluded that the settlement amount is “not a gratuity” and that the “settlement was predicated on a credible legal claim.”


The bill I introduce today is to authorize the appropriation of those funds that the United States has concluded would be “fair, just and equitable” to satisfy this legal claim. If enacted, this bill will finally achieve a measure of justice for a tribal nation that has for far too long been denied.

For the information of our colleagues, this is the historical background that informs the underlying legal framework of the Canadian Pottawotami.

The members of the Pottawotami Nation in Canada are one of the descendant groups—successors—in-interest of the historical Pottawotami Nation and their claim originates in the latter part of the 18th century. The historical Pottawotami Nation was aboriginal to the United States. They occupied and possessed a vast expanse in what is now the States of Ohio, Michigan, Indiana, Illinois, and Wisconsin. From 1795 to 1833, the Pottawotami ceded most of the traditional land of the Pottawotami Nation through a series of treaties of cession—many of these cessions were made under extreme duress and the threat of military action.

In exchange, the Pottawotami were repeatedly made promises that the remainder of their lands would be secure and, in addition, that the United States would make certain annuities to the Pottawotami.

In 1829, the United States formally adopted a Federal the policy of removal; an effort to remove all Indian tribes from their traditional lands east of the Mississippi River to the west. As part of that effort, the government increasingly pressured the Pottawotami to cede the remainder of their traditional lands, some five million acres in and around the city of Chicago, and remove their nation west. For years, the Pottawotami steadfastly refused to cede the remainder of their tribal territory. Then in 1833, the United States, pressed by settlers seeking more land, sent a Treaty Commission to the Pottawotami with orders to extract a surrender of the remaining lands. The Treaty Commissioners spent 2 weeks using extraordinarily coercive tactics—including threats of war—in an attempt to get the Pottawotami to agree to cede their territory. Finally, in September 1833, the Pottawotami presented the legal claim. Thereafter, by settlement stipulation, the United States has taken the position that it would be “fair, just and equitable” to settle the claims of the Pottawotami Nation in Canada for the sum of $1,830,000. This settlement amount was reached by the parties after seven years of extensive, fact-intensive litigation. Independently, the court concluded that the settlement amount is “not a gratuity” and that the “settlement was predicated on a credible legal claim.”
by mercenaries who were paid on a per capita basis government contract. Over one-half of the Indians removed by these means died en route. Those who reached Iowa were almost immediately removed further to inhospitable parts of Kansas against their will and without their consent.

After learning of these conditions, many of the Pottawatomi, including most of the Wisconsin Band, vigorously resisted forced removal. To avoid Federal troops and mercenaries, much of the Wisconsin Band ultimately found it necessary to flee to Canada. They were often pursued to the border by government troops, government-paid mercenaries or both. Official files of the Canadian and United States governments disclose that many Pottawatomi were forced to leave their homes without their horses or any of their possessions other than the clothes on their backs.

By the late 1830s, the government refused to pay annuities to the Pottawatomi groups that had not removed west. In the 1860s, members of the Wisconsin Band—those still in their traditional territory and those forced to flee to Canada—petitioned Congress for the payment of their treaty annuities. In 1864, the provisions of the Treaty of Chicago and all other cession treaties. By the Act of June 25, 1864, 13 Stat. 172, Congress declared that the Wisconsin Band did not forfeit their annuities by not removing and directed that the annuities be held in trust in the names of the Pottawatomi Indians who had refused to relocate to the west should be retained for their use. The United States Treasury, H.R. Rep. No. 470, 64th Cong., p. 5, as quoted on page 3 of memo dated October 7, 1949. Nevertheless, much of the money was never paid to the Wisconsin Band.

In 1903, the Wisconsin Band—one of whom now resided in three areas, the States of Michigan and Wisconsin and the Province of Ontario—petitioned the Senate to pay them their share of the fair portion of annuities as required by treaty and statute, Sen. Doc. No. 185, 57th Cong. 2d Sess. By the act of June 21, 1906, 34 Stat. 380, Congress directed the Secretary of the Interior to investigate claims made by the Wisconsin Band and establish a roll of the Wisconsin Band Pottawatomi that still remained in the east. In addition, Congress ordered the Secretary to determine the [Wisconsin Bands] proportionate share of annuities and associated funds, and other moneys paid to or expended for the tribe to which they belonged in which the claimant Indians have not shared, and the amount of such moneys retained in the Treasury of the United States to the credit of the claimant Indians as directed the provision of the Act of June 25, 1864.

In order to carry out the 1906 Act, the Secretary of Interior directed Dr. W.M. Wooster to conduct an enumeration of Wisconsin Band Pottawatomi in both the United States and Canada. Dr. Wooster documented 2,007 Wisconsin Pottawatomi: 457 in Wisconsin and Michigan and 1,550 in Canada. He also concluded that the proportionate share of annuities for the Pottawatomi in Wisconsin and Michigan was $477,339 and that the proportionate share of annuities due the Pottawatomi Nation in Canada was $1,517,226. Congress thereafter appropriated sums of money out of the Treasury to the credit of such monies retained in the Treasury pended for the tribe to which they be-

Since that time, the Pottawatomi Nation in Canada has diligently and continuously sought to enforce their treaty rights, although until this Congressional reference, they had never been provided their day in court. In 1910, the United States and Great Britain entered into an agreement for the purpose of dealing with claims between both countries, including claims of Indians in the Province of Ontario—petitioned the United States. The Indian Claims Commission was finally established by the Pecuniary Claims Tribunal. From 1910 to 1938, the Pottawatomi Nation in Canada diligently sought to have their claim heard in this international forum. Overlooked for more pressing international matters of the period, includ-

By Mr. INOUYE (for himself, Ms. MURKOWSKI, and Mr. BEGICH):

SECTION 1. SETTLEMENT OF CERTAIN CLAIMS.
(a) AUTHORIZATION FOR PAYMENT.—Notwithstanding any other provision of law, subject to subsection (b) of this section, the Secretary of the Treasury shall pay to the Pottawatomi Nation in Canada $1,830,000 from amounts appropriated under section 1304 of title 31, United States Code.

(b) PAYMENT IN ACCORDANCE WITH STIPULATION FOR RECOMMENDATION OF SETTLEMENT.—The payment under subsection (a) shall—
(1) be made in accordance with the terms and conditions of the Stipulation for Rec-
lution for Recommendation of Settlement.

(c) FULL SATISFACTION OF CLAIMS.—The payment under subsection (a) shall be in full satisfaction of all claims of the Pottawatomi Nation in Canada against the United States that are referred to or described in the Stipulation for Recommendation of Settlement.

By Mr. INOUYE (for himself, Ms. MURKOWSKI, and Mr. BEGICH):
Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled, 

SECTION 1. SHORT TITLE.
This Act may be cited as the "Native American Economic Advisory Council Act of 2011." 

SEC. 2. FINDINGS.
(1) This Congress finds—
(1) that the United States has a special political and legal relationship to the Native American people of the United States by the year 2025;
(2) that Native Americans, like other people in the United States, have been hit hard by the recent recession in the United States economy in over 50 years, causing a significant decline in employment and economic activity across the United States;
(3) that Native American communities have been described as "emerging economies" and consequently have been staked in the efforts of the communities to build sustainable growing economies for the people of the communities and are being adversely affected faster than the rest of the United States;
(4) that the impacts of the ongoing recession and the near collapse of the financial and banking systems require a review of assumptions about the future, the need for new growth strategies, and the groundwork for economic success in the 21st century;
(5) that there is a continuing need for direct economic assistance, including needs for improving rural infrastructure and alternative energy in rural and Native American communities of the United States and providing Native Americans leaders with the tools to create jobs and improve economic conditions;
(6) that in light of the role of Native American communities as emerging markets within the United States, there are opportunities and needs that should be addressed, including consideration of United States support and funding to create an Indigenous Sovereign Wealth Fund that is similar to those Funds created around the world to diversify revenue streams, attract more resources, invest more wisely, and create jobs;
(7) that Native Americans should be participants when major economic decisions are made that affect the property, lives, and future of Native Americans; and
(8) that Native Americans should fully participate in rebuilding Native American communities and have necessary tools and resources.

SEC. 3. PURPOSE.
The purpose of this Act is to authorize and establish a Native American Economic Advisory Council to consult, coordinate with, and make recommendations to the Executive Office of the President, Cabinet officers, and Federal agencies.

(1) to improve the focus, effectiveness, and delivery of Federal economic aid and development programs to Native Americans and, as a result, better deliver economic stimulus programs to help Native American communities;
(2) to build and expand the capacity of leaders in Native American organizations and communities to take positive and innovative steps—
(A) to create jobs;
(B) to establish stable and profitable business enterprises;
(C) to enhance economic conditions; and
(D) to use Native American-owned resources for the benefit of members; and
(2) to recommend and develop effective and efficient economic development programs in Native American communities.

(3) Native Americans should fully participate in rebuilding Native American communities and have necessary tools and resources.

(4) The purpose of this Act is to provide an economic stimulus to help Native American communities generate jobs and stronger economic performance will require United States financial and tax incentives to attract and expand the long-term investment that is tailored to the unique needs and circumstances of Native American communities;

(5) Native American communities are considered "emerging economies" that have stalled because of the current economic situation. This bill is an attempt to keep these communities moving by educating, empowering, and encouraging the future Native American leaders to create sustainable economic growth programs in their own communities.

In Hawaii, the cost of living ranges from 30 percent to 60 percent higher than the national average. We have started an economic appraisal in the future and this bill provides an opportunity to do so. I look forward to working with my colleagues on reinvesting in our Nation's future.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

SEC. 4. ESTABLISHMENT OF NORTHERN LANDS ADVISORY COUNCIL.
(a) IN GENERAL.—There is established a Northern American Economic Advisory Council (referred to in this Act as the "Council") to advise and assist the Executive Office of the President and Federal agencies to ensure that Native Americans (including Native American communities, organizations and individuals) have—
(A) the means and capacity to generate and benefit from economic stimulus and growth; and
(B) fair access to, and reasonable opportunities to participate in, economic development and job growth programs.

(b) PURPOSE.—The Council shall consist of 5 members appointed by the President.

(c) INITIAL APPOINTMENTS.—Not later than 180 days after the date of enactment of this Act, the President shall appoint the initial members of the Council.

(d) COMPOSITION.—Of the members of the Council—
(1) shall not affect the authority of the Commission; and
(2) shall be filled in the same manner as the initial appointments to the Council.

(e) COMPENSATION.—Each member of the Council shall be paid travel expenses, including per diem in lieu of subsistence, at the rates in effect for individuals 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 Council.

(f) STAFF.—The Council may, without regard to the civil service laws (including regulations), appoint and terminate an executive director and such other staff as are necessary to enable the Council to perform the duties required under this Act.

(g) EMPLOYEES.—An employee of the Federal Government may be detailed to the Council without reimbursement.

(h) COMPENSATION.—The rate of pay for the executive director and other personnel of the Council shall not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(i) TEMPORARY SERVICES.—The Council may procure temporary and intermittent services in accordance with section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of that title.

(j) ADMINISTRATIVE SERVICES.—The Secretary of Commerce may appropriate administrative office space and administrative services for the Council (including staff of the Council).
S 62
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.
This Act may be cited as the “Indian Reservation Bank Branch Act of 2009”.

SEC. 2. REGULATIONS GOVERNING INSURED DEPOSITORY INSTITUTIONS.
Section 18(d) of the Federal Deposit Insurance Act (12 U.S.C. 1828(d)) is amended by adding at the end the following:

“(E) ELECTRONIC BROWSER BY INDIAN TRIBES TO PERMIT BRANCHING OF BANKS ON INDIAN RESERVATIONS.—
“(1) DEFINITIONS.—In this paragraph, the following definitions shall apply:
“(A) the term ‘Indian tribe’ means a tribe as defined in section 458c of title 25, United States Code; and
“(B) the term ‘Indian reservation’ means—
“(i) a reservation that is not recognized as an Indian reservation by the Secretary of the Interior; or
“(ii) a reservation that is recognized as an Indian reservation by the Secretary of the Interior; and
“(C) the term ‘Indian country’ means the lands within the outer geographic boundaries of the State in which the Indian reservation is located; and
“(D) the term ‘Indian Tribe’ means—
“(i) an Indian tribe as defined in section 458c of title 25, United States Code; or
“(ii) a tribe that is not recognized as an Indian tribe by the Secretary of the Interior; and
“(E) the term ‘Indian Tribe with Significant Economic Interest in the Establishment of a Branch’ means an Indian tribe for which the Council of Economic Advisers, in consultation with the Secretary of the Treasury, recommends that the chartering of such a main office on an Indian reservation is consistent with the public interest, national security, or other public need.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.
There are authorized to be appropriated to carry out this Act such sums as are necessary.

SEC. 4. DUTIES.
(a) In general.—The Council shall—
(1) prepare periodic reports on the activities of the Council; and
(2) make the reports available to—
(A) the General Accounting Office; (B) the Council of Economic Advisers; (C) the Office of Management and Budget; (D) the Domestic Policy Council; (E) the Federal Deposit Insurance Corporation; (F) the Council of Economic Advisers; (G) the Secretary of Energy; and (H) the Secretary of Commerce.

SEC. 5. REPORTS.
The Council shall—
(a) in general.—The Council shall—
(1) prepare periodic reports on the activities of the Council; and
(2) make the reports available to—
(A) Native American communities, organizations, and members; (B) the General Services Administration; (C) the Office of Management and Budget; (D) the Domestic Policy Council; (E) the National Economic Council; (F) the Council of Economic Advisers; (G) the Secretary of the Treasury; (H) the Secretary of Commerce; (I) the Secretary of Labor; (J) the Secretary of the Interior; (K) the Secretary of Energy; and (L) members of the public.

SEC. 6. ASSESSMENT OF IMPACTS OF LEGISLATIVE PROPOSALS ON NATIVE AMERICAN ECONOMIC PROSPECTS AND OPPORTUNITY.
In preparing and communicating the comments and recommendations of the President on proposed legislation to committees and the public, the Director, the Office of Management and Budget and the head of a Federal agency shall include an assessment of the impacts of the proposed legislation on the economic and employment prospects and opportunities provided in the proposed legislation to improve the quality of life for American Indians and Alaskan Natives, organizations, and members to the levels enjoyed by most people of the United States.

Mr. President I ask unanimous consent that the bill be printed in the RECORD.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
‘’{(dd) any land held by a Native village, Native group, Regional Corporation, or Village Corporation under the Alaska Native Claims Settlement Act (43 U.S.C. 161 et seq.).}

‘’{(ee) the term ‘Indian tribe’ has the same meaning as in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 1601).}

‘’{(ff) Tribal government.—

‘’{(1) In general.—The term ‘tribal government’ means the business council, tribal council, or similar legislative or governing body of any Indian tribe.

‘’{(2) Approval by corporation.—Subject to subparagraph (c), in addition to any other authority under this section to approve an application to establish or operate a de novo branch within the boundaries of an Indian reservation, the Corporation may approve an application of a State bank to establish and operate a de novo branch within the boundaries of 1 or more Indian reservations (regardless of whether the Indian reservations are located within the boundaries of the State bank), if there is in effect within the host reservation a law enacted by the tribal government of the host reservation that—

‘’{(i) applies with equal effect to all banks located within the host reservation; and

‘’{(ii) specifically permits any in-State or out-of-State bank to establish within the host reservation a de novo branch.

‘’{(c) Conditions.—

‘’{(1) Establishment.—An application by a State bank to establish and operate a de novo branch within the boundaries of an Indian reservation shall not be subject to the requirements and conditions applicable to an application for an interstate merger transaction under paragraphs (3) and (4) of section 4(e) of the Federal Deposit Insurance Act (12 U.S.C. 1831(b)).

‘’{(2) Operation.—Subsections (c) and (d)(2) of section 4(f) of that Act (12 U.S.C. 1831a) shall not apply with respect to a branch of a national bank that is established and operated pursuant to an application approved under this subsection.

‘’{(d) Prohibition.—

‘’{(1) In general.—Except as provided in clause (ii), no national bank that establishes or operates a branch on 1 or more Indian reservations solely pursuant to subsection (b) may establish any additional branch outside of such Indian reservation in the State in which the Indian reservation is located.

‘’{(ii) Exception.—Clause (i) shall not apply if a national bank described in that clause would be permitted to establish and operate an additional branch under any other provision of this section or other applicable law, without regard to the establishment or operation by the national bank of a branch on the subject Indian reservation.''

By Mr. INOUYE.

S. 63. A bill to require the Secretary of the Army to determine the validity of the claims of certain Filipinos that they performed military service on behalf of the United States during World War II; to the Committee on Veterans' Affairs.

Mr. INOUYE. Mr. President, I am re-introducing legislation today that would direct the Secretary of the Army to determine whether certain nationals of the Philippine Islands performed military service on behalf of the United States during World War II.

Our Filipino veterans fought side by side with Americans and sacrificed their lives on behalf of the United States. This legislation would confirm the validity of their claims and further allow qualified individuals the opportunity to apply for military and veterans benefits that, I believe, they are entitled to. As this population becomes older, it is important for our Nation to extend its firm commitment to the Filipino veterans and their families who participated in making us the great Nation that we are today.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.
SEC. 1. DETERMINATIONS BY THE SECRETARY OF THE ARMY.

(a) In General.—Upon the written application of any person who is a national of the Philippines, the Secretary of the Army shall determine whether such person performed any military service in the Philippines Islands in aid of the Armed Forces of the United States during World War II which qualifies such person to receive any military, veteran’s, or other benefits under the laws of the United States.

(b) Information to be Considered.—In making a determination for the purpose of subsection (a), the Secretary shall consider all information and evidence (relating to service referred to in subsection (a)) that is available to the Secretary, including information and evidence submitted by the applicant, if any.

SEC. 2. CERTIFICATE OF SERVICE.

(a) Issuance of Certificate of Service.—The Secretary of the Army shall issue a certificate of service to each person determined by the Secretary to have performed military service described in section 1(a).

(b) Effect of Certificate of Service.—A certificate of service issued to any person under subsection (a) shall, for the purpose of any law of the United States, conclusively establish the period, nature, and character of the military service described in the certificate.

SEC. 3. APPLICATIONS BY SURVIVORS.

An application submitted by a surviving spouse, child, or parent of a deceased person described in section 1(a) shall be treated as an application submitted by such person.

SEC. 4. LIMITATION PERIOD.

The Secretary of the Army may not consider for the purposes of this Act any application received by the Secretary more than two years after the date of the enactment of this Act.

SEC. 5. PROSPECTIVE APPLICATION OF DETERMINATIONS BY THE SECRETARY OF THE ARMY.

No benefits shall accrue to any person for any period before the date of the enactment of this Act as a result of the enactment of this Act.

SEC. 6. REGULATIONS.

The Secretary of the Army shall prescribe regulations to carry out sections 1, 3, and 4.

SEC. 7. RESPONSIBILITIES OF THE SECRETARY OF VETERANS AFFAIRS.

Any entitlement of a person to receive veterans’ benefits by reason of this Act shall be administered by the Secretary of Veterans Affairs pursuant to regulations prescribed by the Secretary of Veterans Affairs.

SEC. 8. DEFINITION.

In this Act, the term “World War II” means the period beginning on December 7, 1941, and ending on December 31, 1946.

By Mr. INOUYE.

S. 61. A bill to establish a fact-finding Commission to extend the study of the prior Commission to investigate and determine facts and circumstances surrounding the relocation, internment, and deportation to Axis countries of Latin Americans of Japanese descent from December 1941 through February 1948, and the impact of those actions by the United States, and to recommend appropriate remedies, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. INOUYE. Mr. President, I rise today in support of the Commission on Wartime Relocation and Internment of Latin Americans of Japanese Descent Act.

The story of U.S. citizens taken from their homes on the west coast and confined in camps is a story that was made known after a fact-finding study by a Commission that Congress authorized in 1980. That study was followed by a formal apology by President Reagan and a bill for reparations. Far less known, and indeed, I myself did not initially know, is the story of Latin Americans of Japanese descent taken from their homes in Latin America, stripped of their passports, brought to the U.S., and interned in American camps.

This is a story about the U.S. government’s act of reaching its arm across international borders, into a community that did not pose an immediate threat to our Nation, in order to use them, devoid of passports or any other proof of citizenship, for exchange with the Japanese government. Between the years 1941 and 1945, our Government, with the help of Latin American officials, arbitrarily arrested persons of Japanese descent from streets, homes, and workplaces. Approximately 2,300 undocumented persons were brought to camp sites in the U.S., where they were held under armed watch, and then held in reserve for prisoner exchange. Those used in an exchange were sent to Japan, a foreign country that many had never set foot on since their ancestors’ immigration to Latin America.

Despite their involuntary arrival, Latin American internees of Japanese descent were considered by the Immigration and Naturalization Service as illegal entrants. By the end of the war, some Japanese Latin Americans had been sent to Japan. Those who were not used in a prisoner exchange were cast out into a new and English-speaking country, and subject to deportation proceedings. Some returned to Latin America. Others remained in the U.S., because their country of origin in Latin America refused their re-entry, because they were unable to present a passport.

When I first learned of the wartime experiences of Japanese Latin Americans, it seemed unbelievable, but indeed, it happened. It is a part of our national history, and it is a part of the living histories of the many families whose lives are forever tied to internment camps.

The outline of this story was sketched out in a book published by the Commission on Wartime Relocation and Internment of Civilians formed in 1980. This Commission had set out to learn about Japanese Americans. Towards the close of their investigations, the Commissioners stumbled upon this extraordinary effort by the U.S. Government to relocate, intern, and deport Japanese persons formerly living in Latin America. Because this finding surfaced late in its study, the Commission was unable to fully uncover the facts, but found them significant enough to include in its published study, urging a deeper investigation.

I rise today to introduce the Commission on Wartime Relocation and Internment of Latin Americans of Japanese Descent Act, which would establish a fact-finding Commission to extend the study of the 1980 Commission. This Commission’s task would be to determine facts surrounding the U.S. government’s actions in regards to Japanese Latin Americans subject to a program of relocation, internment, and deportation. I believe that examining this extraordinary program would give finality to, and complete the account of Federal actions to detain and intern civilians of Japanese ancestry.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 64
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Commission on Wartime Relocation and Internment of Latin Americans of Japanese Descent Act”.

SECTION 2. FINDINGS AND PURPOSE.

(a) Findings.—Based on a preliminary study published in December 1982 by the Commission on Wartime Relocation and Internment of Civilians, Congress finds the following:

(1) During World War II, the United States—

(A) expanded its internment program and national security investigations to conduct the program and investigations in Latin America; and

(B) financed relocation to the United States, and internment, of approximately 2,300 Latin Americans of Japanese descent for the purpose of exchanging the Latin Americans of Japanese descent for United States citizens held by Axis countries.

(2) Approximately 2,300 men, women, and children of Japanese descent from 13 Latin American countries were held in the custody of the Department of State in internment camps operated by the Immigration and Naturalization Service from 1941 through 1948.

(3) Those men, women, and children either—

(A) were arrested without a warrant, hearing, or indictment by local police, and sent to the United States for internment; or

(B) in some cases involving women and children, voluntarily entered internment camps to remain with their arrested husbands, fathers, and other male relatives.

(4) Passports held by individuals who were Latin Americans of Japanese descent were routinely confiscated before the individuals arrived in the United States, and the Department of State ordered United States consuls in Latin American countries to refuse to issue visas to the individuals prior to departure.

(5) Despite their involuntary arrival, Latin American internees of Japanese descent were
considered to be and treated as illegal entants by the Immigration and Naturalization Service. Thus, the internees became ilegal aliens in United States custody who were taken into military processing for immediate removal from the United States. In some cases, Latin American internees of Japanese descent were deported to Axis countries to enable the United States to continue its war against Japan.

(6) Approximately 2,300 men, women, and children of Japanese descent were relocated from their homes in Latin America, detained in internment camps in the United States, and in some cases, deported to Axis countries to enable the United States to continue its war against Japan.

(7) The Commission on Wartime Relocation and Internment of Civilians studied Federal actions conducted pursuant to Executive Order 9066, an examination of that extraordinary program is necessary to establish a complete account of Federal actions to detain and intern civilians of enemy or foreign nationalities, particularly of Japanese descent. Although historical documents relating to the program exist in distant archives, the Commission on Wartime Relocation and Internment of Civilians did not research those documents.

(8) Latin American internees of Japanese descent were a group not covered by the Civil Liberties Act of 1988 (50 U.S.C. App. 1989b et seq.), which formally apologized and provided compensation payments to former Japanese Americans interned pursuant to Executive Order 9066.

(b) PURPOSE.—The purpose of this Act is to establish a fact-finding Commission to extend the study of the Commission on Wartime Relocation and Internment of Civilians conducted pursuant to Executive Order 9066, an examination of that extraordinary program is necessary to establish a complete account of Federal actions to detain and intern civilians of enemy or foreign nationalities, particularly of Japanese descent. Although historical documents relating to the program exist in distant archives, the Commission on Wartime Relocation and Internment of Civilians did not research those documents.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission.

(d) MEETINGS.—

(1) FIRST MEETING.—The President shall call the first meeting of the Commission not later than 60 days after the date of enactment of this Act.

(2) SUBSEQUENT MEETINGS.—Except as provided in paragraph (1), the Commission shall meet at the call of the Chairperson.

(3) QUORUM.—Five members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(f) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall elect a Chairperson and Vice Chairperson from among its members. The Chairperson and Vice Chairperson shall serve as members of the Commission.

SEC. 4. DUTIES OF THE COMMISSION.

(a) IN GENERAL.—The Commission shall—

(1) extend the study of the Commission on Wartime Relocation and Internment of Civilians, established by the Commission on Wartime Relocation and Internment of Civilians Act—

(A) to investigate and determine facts and circumstances surrounding the United States’ relocation, internment, and deportation to Axis countries of Latin Americans of Japanese descent from December 1941 through February 1948, and the impact of those actions by the United States; and

(B) in investigating those facts and circumstances, to examine the United States Armed Forces and the Department of State requiring the relocation, detention in internment camps, and deportation to Axis countries of Latin Americans of Japanese descent; and

(2) recommend appropriate remedies, if any, based on preliminary findings by the original Commission and new discoveries.

(b) Issuance.—Subpoenas issued under section (a)(1) and recommendations described in subsection (a)(2) shall bear the signature of the Chairperson for that purpose.

(c) Issuance and Enforcement of Subpoenas.—

(1) Issuance.—Subpoenas issued under subsection (a) shall be served by any person or class of persons designated by the Chairperson for that purpose.

(2) Enforcement.—In the case of contumacy or failure to obey a subpoena issued under subsection (a), the United States district court for the judicial district in which the person to be summoned resides, or in which the facility or agency has its principal place of business, or where the evidence is located may be served on the Commission; or such subcommittee or member considsr advisable; and

(3) Compensate.—Each member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates 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.

(b) Compensate.—Each member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates 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.

(c) Witness Allowances and Fees.—Section 1821 of title 28, United States Code, shall apply to witnesses requested or subpoenaed to appear at any hearing of the Commission.

(d) Payment of Fees.—Witnesses shall be paid from funds available to pay the expenses of the Commission.

(e) Information from Federal Agencies.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to perform its duties. The request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

(f) Special Service.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

SEC. 6. PERSONNEL AND ADMINISTRATIVE PROVISIONS.

(a) Compensation of Members.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) Travel Expenses.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates 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.

(c) Staff.—

(1) In General.—The Chairperson of the Commission, without regard to the civil service laws and regulations, appoint and terminate the employment of such personnel as may be necessary to carry out the duties of the Commission.

(2) Compensation.—The Chairperson of the Commission may fix the compensation of the personnel without regard to chapter 55 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the personnel may not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(d) Detail of Government Employees.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) Procurement of Temporary and Intermittent Services.—The Chairperson of the Commission may fix the compensation of the personnel without regard to chapter 55 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the personnel may not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(f) Detail of Government Employees.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(g) Procurement of Temporary and Intermittent Services.—The Chairperson of the Commission may fix the compensation of the personnel without regard to chapter 55 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the personnel may not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(h) Detail of Government Employees.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(i) Procurement of Temporary and Intermittent Services.—The Chairperson of the Commission may fix the compensation of the personnel without regard to chapter 55 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the personnel may not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(j) Detail of Government Employees.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.
and other activities necessary to enable the Commission to perform its duties.

SEC. 7. TERMINATION.
The Commission shall terminate 90 days after the date on which the Commission submits its report to Congress under section 4(b).

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.
(a) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to carry out this Act.

(b) AVAILABILITY.—Any sums appropriated under the authorization contained in this section shall be available, without fiscal year limitation, until expended.

By Mr. INOUYE.

S. 65. A bill to reauthorize the programs of the Department of Housing and Urban Development for housing assistance for Native Hawaiians; to the Committee on Indian Affairs.

Mr. INOUYE. Mr. President, I rise to introduce a bill to reauthorize Title VIII of the Native American Housing Assistance and Self-Determination Act. Title VIII provides authority for the appropriation of funds for the construction of low-income housing for Native Hawaiians. This bill would provide authority for access to loan guarantees associated with the construction of housing to serve Native Hawaiians.

Three studies have documented the acute housing needs of Native Hawaiians—which include the highest rates of overcrowding and homelessness in the State of Hawaii. Those same studies indicate that inadequate housing rates for Native Hawaiians are amongst the highest in the Nation.

The reauthorization of Title VIII will support the continuation of efforts to assure that the native people of Hawaii may one day have access to housing opportunities that are comparable to those now enjoyed by other Americans.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 65.

SEC. 1. SHORT TITLE.
This Act may be cited as the “Hawaiian Homeownership Opportunity Act of 2011.”

SEC. 2. AUTHORIZATION OF APPROPRIATIONS FOR HOUSING ASSISTANCE.

SEC. 3. LOAN GUARANTEES FOR NATIVE HAWAIIAN HOUSING.
Section 184A of the Housing and Community Development Act of 1992 (22 U.S.C. 1715z-13b) is amended—

(1) in subsection (b), by striking “or as a result of a lack of access to private financial markets’’;

(2) in subsection (c), by striking paragraph (2) and inserting the following:

“(2) ELIGIBLE HOUSING.—The loan will be used for the purchase, rehabilitation, or rehu

habilitate 1- to 4-family dwellings that are—

“(A) standard housing; and

“(B) located on Hawaiian Home Lands;”;

and

“(3) in subsection (j)(7), by striking “fiscal years” and all that follows and inserting the following: “fiscal years 2011, 2012, 2013, 2014, and 2015.”

SEC. 4. ELIGIBILITY OF DEPARTMENT OF HAWAIIAN HOME LANDS FOR TITLE VI LOAN GUARANTEES.
Title VI of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4191 et seq.) is amended—

(1) in the title heading, by inserting “AND NATIVE HAWAIIAN after “Tribal’’;

(2) in section 601 (25 U.S.C. 4190)—

(A) in subsection (a)—

(i) by striking “or tribally designated housing entities with tribal approval” and inserting “, tribally designated housing entities with tribal approval, or by the Department of Hawaiian Home Lands;”;

(ii) by inserting “or 810, as applicable,” after “section 202’’; and

(B) in subsection (c), by inserting “or title VIII, as applicable” before the period at the end;

(3) in section 602 (25 U.S.C. 4192)—

(A) in subsection (i)—

(i) in the matter preceding paragraph (1), by striking “or housing entity” and inserting “, housing entity, or Department of Hawaiian Home Lands;”;

(ii) in paragraph (3)—

(I) by inserting “or Department” after “tribe’’;

(II) by inserting “or title VIII, as applicable, after “title I’’; and

(III) by inserting “or 811(b), as applicable” before the semicolon at the end; and

(B) in subsection (b)(1), by striking “or housing entity” and inserting “, housing entity, or the Department of Hawaiian Home Lands”;

(4) in the first sentence of section 603 (25 U.S.C. 4193), by striking “or housing entity” and inserting “, housing entity, or the Department of Hawaiian Home Lands;” and

(5) in section 606(b) (25 U.S.C. 4196(b)), by striking “2009 through 2013” and inserting “2011 through 2015”.

By Mr. INOUYE. S. 67. A bill to amend title 10, United States Code, to permit former members of the Armed Forces, to the Committee on Armed Services.

Mr. INOUYE. Mr. President, today I am reintroducing a bill which is of great importance to a group of patriotic Americans. This legislation is designed to end space-available travel privileges on military aircraft to those who have been totally disabled in the service of our country.

Currently, retired members of the Armed Forces are permitted to travel on a space-available basis through the military Airlift Command. My bill would provide the same benefits for veterans with 100 percent service-connected disabilities.

We owe these heroic men and women who have given so much to our country a debt of gratitude. Of course, we can never repay them for the sacrifices they have made on behalf of our Na-

tion, but we can surely try to make their lives more pleasant and fulfilling.

One way in which we can help is to extend military travel privileges to these distinguished American veterans. I have received numerous letters from all over the country telling me of the importance attached to this issue by veterans. Therefore, I ask that my colleagues show their concern and join me in saying “thank you” by supporting this legislation.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

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

S. 67.

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

SECTION 1. TRAVEL ON MILITARY AIRCRAFT OF CERTAIN DISABLED FORMER MEMBERS OF THE ARMED FORCES.

(a) IN GENERAL.—Chapter 53 of title 10, United States Code, is amended by inserting after section 1060b the following new section:

“1060c. Travel on military aircraft: certain disabled former members of the armed forces

“The Secretary of Defense shall permit any former member of the armed forces who is entitled to compensation under the laws administered by the Secretary of Veterans Affairs for a service-connected disability rated as total to travel, in the same manner and to the same extent as retired members of the armed forces, on unscheduled military flights within the continental United States and on scheduled overseas flights operated by the Air Mobility Command. The Secretary of Defense shall permit such travel on a space-available basis.”

(b) CLERICAL AMENDMENT.—The title of sections at the beginning of chapter 53 of such title is amended by inserting after the item relating to section 1060b the following new item:

“1060c. Travel on military aircraft: certain disabled former members of the armed forces.”

By Mr. INOUYE. S. 68. A bill to amend title 10, United States Code, to authorize certain disabled former prisoners of war to use Department of Defense commissary and exchange stores; to the Committee on Armed Services.

By Mr. INOUYE. Mr. President, today I am reintroducing legislation to enable these former prisoners of war who have been separated honorably from their respective services and who have been rated as having a 30 percent service-connected disability to have the use of both the military commissary and post exchange privileges. While I realize it is impossible to adequately compensate one who has endured long periods of incarceration at the hands of our Nation’s enemies, I do feel this gesture is both meaningful and important to those concerned because it serves as a reminder that our nation has not forgotten their sacrifices.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

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

S. 68.

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

SECTION 1. USE OF COMMISSARY AND EXCHANGE STORES BY CERTAIN DISABLED FORMER PRISONERS OF WAR.

(a) IN GENERAL.—Chapter 54 of title 10, United States Code, is amended by inserting after section 1064 the following new section: 

'a' 1064a. Use of commissary and exchange stores: certain disabled former prisoners of war.

'(1) in subsection (a), by striking ''The last

'(2) in subsection (b)—

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 54 of such title is amended by inserting after the item relating to section 1064 the following new item:

"1064a. Use of commissary and exchange stores: certain disabled former prisoners of war."

By Mr. TESTER:

S. 69. A bill to amend the Consumer Product Safety Improvement Act of 2008 to exclude secondary sales, repair services, and certain vehicles from the ban on lead in children's products, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. TESTER. Mr. President, I rise today to introduce the Common Sense in Consumer Product Safety Act of 2011 on behalf of the folks across America who are outdoor enthusiasts and budding sportsmen and women. This bill will bring a common sense approach to restrictions we place upon access to children's products.

In 2008, in response to the high lead paint content found in a number of toys and products intended for children, the Congress passed legislation to limit children's access to these dangerous products. Many of these products were imports from China and other places where consumer protection is weak or non-existent. I supported this legislation, as did 78 of my colleagues.

Any product sold that is intended to be used by children up to the age of 12 must be tested and certified to not contain more than the allowable level of lead. However, it became clear that the Consumer Product Safety Improvement Act has had some unintended consequences.

While the goal is admirable, it is important to inject a little common sense into the process. I want our kids and grandkids to be safe and protected from harmful toys, but we all know that most kids who are past the teething stage do not chew on their toys. It is important to strike a balance—to enact responsible safety requirements while at the same time recognizing that overzealous regulations can interfere with a way of life enjoyed by not just Montanans, but outdoor enthusiasts across America.

As Chairman of the Congressional Sportsmen's Caucus, I am proud to stand up for Montana's outdoor heritage at every chance. The consumer protection law goes too far and limits younger Montanans' opportunities to participate in those traditions.

My bill will protect small businesses and allow families safer access to the outdoors.

The consumer protection law covers all products intended for the use of children through the age of 12. This includes ATVs, dirt bikes and other vehicles built specifically for the use of older kids and adults. However, because of the way the vehicles are built, parts that may include lead are not exclusively internal components and therefore don't pass the inaccessibility standards required by law. As a result of this requirement, a number of ATV sales and retail establishments have halted the sale of all ATVs for kids. In an abundance of caution, they have also refused to repair any equipment intended for kids use.

I have heard from many Montanans—consumers and retail sales people alike—expressing their concern about the impact of the legislation upon outdoor motorsports. A few years ago I worked with the Consumer Product Safety Commission to successfully provide a two year waiver for child-sized motorized vehicles. However, that stay of enforcement expires this May. Therefore today, I am reintroducing this bill to provide a permanent exception for vehicles intended to be used by children between the ages of 6 and 12.

In addition to manufacturers and merchants, thrift stores, and other retail establishments are also implicated because of the wide-reaching scope of the legislation. It is possible that even holding a yard sale can lead folks astray from the new law. Therefore, my bill also removes liability for lead paint content in any product that is resold, including by thrift stores, flea markets or at yard sales. The liability in place at the time of primary sale of these products is sufficient and it could cripple the profitability of the secondary merchants if they were to be liable for testing the products they resell or repair.

In this tough economy, second-hand resellers simply can’t afford the third-party testing requirement put in place by the bill. At the same time, more and more of Montana’s families are finding their budgets tightened and are relying upon thrift and resale stores for toys, children’s clothing and other household goods. I want to make sure that laws intended to keep our kids safe end up doing more harm than good.

This a very important bill, bringing a dose of common sense to the very important goal of protecting our kids from lead paint and other substances that will harm their health. I urge my colleagues to join me in this effort.

By Mr. INOUYE:

S. 70. A bill to restore the traditional day of observance of Memorial Day, and for other purposes; to the Committee on the Judiciary.

Mr. INOUYE. Mr. President, in our effort to accommodate many Americans by making Memorial Day the last Monday in May, we have lost sight of the significance of this day to our nation. My bill would restore Memorial Day to May 30 and authorize our flag to fly at half mast on that day. In addition, this legislation would authorize the President to issue a proclamation designating Memorial Day and Veterans Day as days for prayer and ceremonies. This legislation would help restore the recognition our veterans deserve for the sacrifices they have made on behalf of our Nation.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

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

S. 70

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

SECTION 1. RESTORATION OF TRADITIONAL DAY OF OBSERVANCE OF MEMORIAL DAY.

(a) DESIGNATION OF LEGAL PUBLIC HOLIDAY.—Section 610(a)(1) of title 5, United States Code, is amended by striking "Memorial Day, the last Monday in May," and inserting the following:

"Memorial Day, May 30."

(b) OBSERVANCES AND CEREMONIES.—Section 116 of title 36, United States Code, is amended—

(1) in subsection (a), by striking "(1) T IME AND OCCASIONS FOR FLAG DIS-

(2) in subsection (b)—

(A) by striking ""(1) T IME AND OCCASIONS FOR FLAG DIS-

(B) by redesignating paragraph (4) as paragraph (3); and

(C) by inserting after paragraph (3) the following:

"(4) calling on the people of the United States to observe Memorial Day as a day of ceremonies to show respect for United States veterans of wars and other military conflicts and";

(c) DISPLAY OF FLAG.—

(1) TIME AND OCCASIONS FOR FLAG DIS-

(2) NATIONAL LEAGUE OF FAMILIES POW/MIA

By Ms. CANTWELL (for herself and Mr. FRANKEN):

S. 74. A bill to preserve the free and open nature of the Internet, expand the benefits of broadband, and promote
universally available and affordable broadband service; to the Committee on Commerce, Science, and Transportation.

Ms. CANTWELL. Mr. President, I rise today to introduce legislation that will preserve the free and open Internet that has led to the growth of broadband.

The broadband Internet is integral to U.S. job creation, economic growth, education, civic engagement, and innovation.

The network design principles fostering the development of the broadband Internet to date, an end-to-end design, layered architecture, and open standards, promotes innovation at the edge of the network and gives end users choice and control of their online activities.

These network design principles have led to the network neutrality of the Internet, where there are no paid-for premium fast lanes and best-effort slow lanes.

Today, broadband providers have access to technology and an economic incentive to favor their own or affiliated services, content, and applications; and discriminate against other providers of services, content, and applications.

If our Nation is to achieve the ambitious broadband goals put forward in the National Broadband Plan, the U.S. needs a clear Federal policy that preserves the historically free and open nature of the Internet.

The policy must apply to all broadband Internet access service providers regardless of the means by which they reach the end user.

As you know, the FCC released its net neutrality rules last fall.

I consider the Commission’s actions to be completely within the bounds of its authority.

The Chevron deference courts give agencies is rather broad.

A quick read of the 2005 U.S. Supreme Court’s Brand X decision tells you all you need to know.

Former FCC Chairman Powell was very creative in his approach to de-regulating broadband over cable modem in 2002.

As you remember, one of the most conservative justices on the Supreme Court, Justice Scalia, voted against the FCC action saying more or less that what Chairman Powell did was an overreach.

Even so, the final decision was six to three in favor of the FCC. That is how broad the Chevron deference is.

And because of the meticulous way Chairman Genachowski conducted the Commission’s process, in the end, I am confident the rule system will uphold its actions.

My issue with the Commission’s net neutrality rules is that I do not think the Chairman was bold enough.

The Commission should have issued one set of rules that covered broadband delivered over wireline, wireless, or some combination of the two. Everyone realizes that the future of broadband is wireless. And with the rollout of 4-G wireless services, that future is with us now.

The Commission should not have kept open the door for any pay-for-priority schemes. It will lead to a tiered Internet, where broadband Internet service providers are incentivized to create artificial bandwidth shortages to maximize profits, rather than invest in new capacity.

The Commission also needed to get the definitions of broadband and reasonable network management right. One was too broad and one too narrow. The wording in definitions is negotiated over fiercely because, if not crafted properly, it can lead to loopholes that severely undercut the effectiveness of the rules.

More fundamentally, the Commission should have reclassified broadband Internet access into Title II of the communications act and forever from regulation all of the elements more appropriate to Title I. It would have taken the Commission a lot more time and resources, but getting net neutrality right is that important, because this is the foundation that all broadband rules and regulations will be built on going forward.

It is surprising that as weak as these rules are they have stirred up so much vitriol.

I know this body will be taking up this matter another day.

My legislation in statute strong net neutrality protections, takes steps to promote broadband adoption, and provides consumer protection for broadband end users.

First I want to acknowledge the leadership of our former colleague Senator Dorgan on this issue.

The bill builds on what we started working together on last fall.

It also borrows some of the good ideas of Mr. Markley and Ms. Eshoo in the House.

At a high level my legislation creates a new section in Title II of the Communications Act that codifies the six new neutrality principles in the FCC’s November 2008 notice of proposed rulemaking for preserving the open Internet.

My legislation adds a few things to the FCC’s list. For example, my legislation also prohibits broadband operators from requiring content, service, or application providers from paying for prioritized delivery of their IP packets; more commonly referred to as pay-for-priority. It also requires broadband providers to interconnect with middle mile broadband providers on just and reasonable terms and conditions.

All of this is subject to reasonable network management as defined. And it applies to all broadband Internet platforms—wireline and wireless.

My legislation takes several steps to promote the addition of broadband, steps such as requiring broadband providers to provide service upon reasonable request by an end user; and requiring broadband providers to offer stand-alone broadband at reasonable rates, terms, and conditions.

My legislation increases consumer protections because all charges, practices, classifications, regulations, for and in connection with the broadband Internet access service must be just and reasonable.

My legislation directs the FCC to come up with enforcement mechanisms. End users, who include individuals, businesses of all sizes, non-profit organizations, and others, can file a complaint either at the FCC or at a U.S. District Court, but not both. Additionally, State Attorneys General can file on behalf of their residents and seek either to enforce the act or to seek civil penalties.

My legislation supports continued broadband investment, innovation, and jobs.

Let me explain.

First innovation. With the Internet’s end-to-end design, innovation is at the edge of the network in the hands of the end users. New ideas for online content, application, and services do not need the permission of the centralized network operator to become successful.

Without net neutrality protections, I fear situations arising that will chill innovation.

For example, if a broadband provider has a partnership with company A to provide end users a certain on-line service, and new company B comes up with better content, it is hard to see how this can happen. If broadband Internet access service provider end up on the critical path for successful commercialization of on-line innovations, the path to success will be all the much harder. The language in my bill tries to prevent these types of situations from happening.

This leads to my second point, the chilling of investment without effective net neutrality rules.

To understand the situation where an early stage online company is seeking venture capital investments. The first question any responsible VC will ask is whether the following list of large broadband providers are on-board with the online product or service. Because if there is a situation, as in my example on innovation, where the large broadband provider has a partnership with the early stage companies’ entrenched competitor, it is going to be difficult, if not impossible, to raise venture capital investment. The blending of broadband providers will become essential to obtaining VC investment of any magnitude. How to get large broadband
providers on board will become a key part of every business plan. Broadband providers would then become gatekeepers to online innovation and investment.

Broadband investment can also be chilly. The logical extension of pay-for-priority is a tiered Internet with premium fast lanes and best effort slow lanes. With a tiered Internet, it becomes more profitable to create an artificial bandwidth shortage rather than in investing to increase broadband capacity of the local network.

The reason is that it is easier to adjust pricing policies than forecast the optimum level of investment and be able to finance it at favorable rates. Recall the Internet bubble about a decade ago. That is why I believe that if pay-for-priority exists, it will ultimately lead to a lower level of broadband investment that would occur otherwise.

I agree with the need for broadband providers to upgrade the quality of their network and increase the available bandwidth to meet the anticipated market demand. If end users want more bandwidth or quality-of-service assurance, they should be willing to pay for it. It is that simple. I have no issue with allowing broadband providers explore different pricing options for consumers. My bill doesn’t prevent that.

Third jobs. Since the advent of the broadband age, there have been more high-value-added, high-paying jobs created by companies operating at the edge of the network than companies at the center of the network. And because of chilled investment and other restrictions, without net neutrality rules, I believe we will experience a lower rate of growth of broadband-enabled jobs.

Let me close by saying that I bring a unique perspective to the policy discussion over net neutrality by virtue of working in the tech industry during the dial-up age and early years of broadband.

To put things in perspective, the ideas and language that became the Telecommunications Act of 1996 was coming together around the time Netscape 1.0 was being introduced commercially.

Whether intentionally or unintentionally, that 1996 Telecom Act accelerated broadband, even though the word Internet appeared less than one dozen times. It set the wheels in motion by allowing local competition to the offspring of Ma Bell, allowing telecom companies to offer video programming, and allowing cable companies to offer telecom service.

Cable companies responded to this competitive threat, and that from the satellite TV companies due to the Satellite Home Viewing Act, by making infrastructure investments that allowed them to offer new broadband service over cable modem.

Competitive Local Exchange Carriers, taking advantage of their new ability to line share and access unbundled network elements, also saw the competitive benefits of offering broadband service.

The traditional telecon companies, well, at the time they seemed focused on trying to reassemble Ma Bell and discovering us all extra, dedicated landline or two for dial up service.

Eventually, the competitive pressure did drive them to make the necessary investment to offer broadband.

The business of delivering broadband Internet access differed than that of dial-up. In their heyday, ISPs such as AOL, CompuServe, and Prodigy did not own their own infrastructure; they leased telecom transmission capacity from third parties telecom companies. With broadband, for a number of reasons, there came the much greater vertical integration of the ISP and transmission capacity.

Looking back, broadband over cable modem flourished under Title II through until the FCC deregulated it. Similarly, broadband over landlines flourished under Title II through 2005, until Chairman Martin’s deregulated it in the wake of the Brand X decision.

As Senator Dorgan used to say, having broadband under Title II ensured that there was a broadband cop on the beat.

If there were functioning local markets for broadband services, consumers could choose among them, and I might think differently about the need for legislation. Unfortunately end users in most communities have a limited number of choices at best when it comes to broadband Internet access services.

At its most basic, that is why we need to return that broadband cop to the beat. My bill will do that, and do that without regulating the Internet.

It will achieve the regulatory certainty industry seems to clamoring for by having both the content in statute rather than left to agency rule and the politics of each succeeding administration.

I don’t claim that this bill is a perfect bill. It lays down a marker for where we should start the discussion.

Given the complexity of the Internet ecosystem, any legislation will have to be worked through by the Commerce Committee. There are always details, details, and more details with respect to both business models and subtle cases that need to be considered. For these reasons I recognize that the Commission will need some flexibility in implementing the statute and I believe my language will provide them with just enough.

My bill will preserve an open and free Internet, allow for broadband’s continued growth, and the economic growth and jobs that it will create.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

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

SEC. 280. INTERNET FREEDOM AND BROADBAND PROMOTION.

(a) PURPOSES.—The purposes of this section are—

(1) to promote increased availability and adoption of broadband for all Americans;
(2) to promote consumer choice and competition among broadband Internet access service providers and among providers of lawful content, applications, and services; and

(3) to protect consumers, innovators and entrepreneurs from harmful, discriminatory, or anti-competitive behavior by providers of broadband Internet access service.

(b) Broadband Internet Access Service and Charges.—

(1) It shall be the duty of every broadband Internet access service provider to furnish such broadband Internet access service to end users upon reasonable request.

(2) Broadband Internet access service providers, before end users purchase voice grade telephone service, commercial mobile radio voice services, or multichannel-video programming distribution services or other specialized services as a condition on the purchase of any broadband Internet access service.

(3) All charges, practices, classifications, and regulations for and in connection with broadband Internet access service shall be just and reasonable.

(4) If a broadband Internet access service provider shall require its end users to require quality-of-service assurances for the transmission of Internet Protocol packets associated with its own applications, services, or content or that of its affiliates, then—

(A) the broadband Internet service provider shall permit such assurances for all Internet Protocol packets chosen by the end user, without regard to the content, applications, or services involved; and

(B) any quality-of-service assurance shall not block, interfere with, or degrade, any other offerings or the end user's choice of legal devices that do not harm the network;

(5) prevent or interfere with competition among applications, services or content providers;

(6) engage in discrimination against any lawful Internet content, application, service, or service provider with respect to network management practices, network performance characteristics, or commercial terms and conditions;

(7) give preference to affiliated content, applications, or services with respect to network management practices, network performance characteristics, or commercial terms and conditions;

(8) charge a content, application, or service provider for access to the broadband Internet access service provider's end users based on differing levels of quality of service or prioritized delivery of Internet protocol packets;

(9) refuse to interconnect on just and reasonable terms and conditions.

(g) Reasonable Network Management.—

(1) In General.—Nothing in this section shall prohibit a broadband Internet access service provider from engaging in reasonable network management.

(2) Reasonable Presumption.—For purposes of this section, a network management practice is presumed to be reasonable for a broadband Internet access service provider only if it is—

(A) essential for a legitimate network management purpose assuring the operation of the network;

(B) appropriate for achieving the stated purpose;

(C) narrowly tailored; and

(D) among the least restrictive, least discriminatory, and least constraining of consumer choice available.

(3) Factors to be Considered.—In determining whether a network management practice is reasonable, the Commission shall take into account the particular network architecture and any technology and operational limitations of the broadband Internet access service provider.

(4) Limitation.—A network management practice may not be considered to be a reasonable network management practice if the broadband Internet access service provider uses such content, applications, or other online service providers for differing levels of quality of service or prioritized delivery of Internet Protocol packets.

(e) Other Regulated Services.—This section shall not be construed to prevent broadband Internet access service providers from offering interconnected Voice over Internet Protocol (VoIP) services or multichannel-video programming distribution services regulated under title VI of this Act or any other services regulated under title VI of this Act also used by broadband Internet access service providers.

(f) Transparency.—

(1) In General.—A provider of broadband Internet access service

(A) shall disclose publicly on its external website and at the point of sale accurate information regarding the network management practices, network performance, and commercial terms of its broadband Internet access service in plain language sufficient for end users to make informed choices regarding the purchase of such service or service, content or other offerings, and

(B) shall disclose publicly on its external website and at the point of sale any other practices that affect communications between a user and a content, application, or service provider or any extraordinary, routine use of such broadband service.

(2) Exemptions.—The Commission may exempt certain kinds of information from disclosure on the grounds that it is competitively sensitive or could compromise network security. Within 90 days after the date of enactment of the Internet Freedom, Broadband Promotion, and Consumer Protection Act of 2011, the Commission shall conclude a rulemaking proceeding to implement this subsection.

(g) Stand-Alone Internet Access Service.—

(1) In General.—Within 180 days after the date of enactment of the Internet Freedom, Broadband Promotion, and Consumer Protection Act of 2011, the Commission shall promulgate rules to ensure that broadband Internet access service providers do not require the purchase of voice grade telephone service, commercial mobile radio voice services, or multichannel-video programming distribution services as a condition of purchasing any broadband Internet access service, and that the rates, terms, and conditions for providing such service are just and reasonable.

(2) Report.—In the report required by section 706 of the Telecommunications Act of 1996 (47 U.S.C. 3020), the Commission shall collect information on the availability, providers of stand-alone broadband Internet access service.

(3) Eligibility to Access Any Universal Service Fund for Broadband.—If the Commission establishes a universal service fund for broadband Internet access service providers, only broadband Internet access service providers that offer stand-alone broadband service shall be eligible to participate in the fund.

(4) Enforcement, Liability, and Recovery of Damages.—

(A) Expeditious Complaint Process.—Within 180 days after the date of enactment of the Internet Freedom, Broadband Promotion, and Consumer Protection Act of 2011, the Commission shall prescribe rules to permit any aggrieved person to file a complaint with the Commission concerning a violation of subsections (b), (c), or (g) of this section, and establish enforcement and expedited adjudicatory review procedures including the resolution of complaints not later than 90 days after the date such complaint was filed, except for good cause shown.

(B) Libel of Broadband Internet Access Service Providers for Damages.—If a broadband Internet access service provider does, or causes or permits to be done, any act, matter, or thing that is prohibited under this section, or fails to do any act, matter, or thing required by this section, or fails to do any act, matter, or thing required by this section, and fails to comply with the provisions of this section, the provider shall be liable to the person or persons injured thereby for the full amount of damages sustained in consequence of any such violation of the provisions of this section, together with a reasonable counsel or attorney’s fee, as determined by the Commission.

(C) Venue.—Any person claiming to be damaged by any broadband Internet access service provider subject to the provisions of this section may either make a complaint to the Commission as provided for in paragraph (1), or may bring suit for the recovery of the damages in a district court of the United States that meets applicable requirements of section 1391 of title 28, United States Code. A claimant may not bring an action in a Federal district court if the claimant has filed a complaint with the Commission under paragraph (1) with respect to the same violation.

(5) Enforcement by States.—

(A) In General.—The chief legal officer of a State, or any other State officer authorized by law to bring actions on behalf of the residents of a State, may bring a civil action, as parens patriae, on behalf of the residents of that State in an appropriate district court of the United States to enforce this section or to impose civil penalties for violations of this section, whenever the chief legal officer of that State believes that the residents of the State have been or are being threatened or adversely affected by a violation of this section.

(B) Notice.—The chief legal officer or other State officer shall serve written notice on the Commission of any civil action under subsection (A) prior to the commencement of such civil action. The notice shall include a copy of the complaint to be filed to initiate such civil action, except that if it is not feasible for the State to provide such prior notice, the State shall provide such notice immediately upon instituting such civil action.

(C) Authority to Intervene.—Upon receipt of the notice required under paragraph (B), the Commission shall have the right—

(A) to intervene in the action;
using Internet Protocol at peak download data transfer rates in excess of 200 kilobits per second, through an always-on connection; but

(2) does not include dial-up access requiring an end user to initiate a call across the public switched telephone network to establish a connection.

(8) Broadband Internet Access Service.—The term ‘broadband Internet access service’ means any communications service by wire or radio that provides broadband Internet access to the public, or to such classes of users as to be effectively available directly to the public.

(9) Broadband Internet Access Service Provider.—The term ‘broadband Internet access service provider’ means a person or entity that offers or resells and controls any functionality used for providing broadband Internet access service directly to the public, whether provided for a fee or for free, and whether provided via wire or radio, except when such service is offered as an incidental component of a noncommunications contractual relationship.

(10) End User.—The term ‘end user’ means any person who, by way of a broadband service, takes and utilizes Internet services, whether provided for a fee, in exchange for an explicit benefit, or for free.

(11) Interconnected Voice over Internet Protocol Service.—When used in this section, the term ‘interconnected VoIP service’ means a service that enables real-time, two-way voice communications; requires a broadband connection from the user’s location; requires Internet protocol compatible customer premises equipment; and permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network subject to section 9.3 of the Commission’s regulations (47 C.F.R. 9.3).

By Mr. KOLH (for himself, Mrs. FEINSTEIN, Mr. DURBIN, Mr. WHITEHOUSE, Ms. KLIEBUCAR, Mr. FRANKEN, and Mr. WYDEN). S. 75. A bill to—

(a) require that agreements between manufacturers and retailers, distributors, or wholesalers that set the minimum price below which the manufacturer’s product or service cannot be sold violates the Sherman Act; to the Committee on the Judiciary;

Mr. KOLH. Mr. President, I rise today to introduce legislation essential to consumers receiving the best price for every product, from electronics to groceries. My bill, the Discount Pricing Consumer Protection Act, will restore the nearly century old rule that it is illegal under antitrust law for a manufacturer to set a minimum price for its product. A retailer cannot sell the manufacturer’s product, a practice known as ‘resale price maintenance’ or ‘vertical price fixing.’ This bill will ensure that consumers can obtain discounts, particularly when they need them the most.

In June 2007, overturning a 96-year-old precedent, a narrow 5–4 Supreme Court majority in the Leegin case turned the Sherman Act on its head to overturn this basic rule of the marketplace which has served consumers well for nearly a century. My bill—identical to legislation I introduced in the last two Congresses—would correct this misinterpretation of antitrust law and restore the per se ban on vertical price fixing. My bill has been endorsed by the National Association of Attorneys General, 36 state attorneys general, as well as numerous antitrust experts, including former FTC Chairman Pitofsky and former FTC Commissioner Harbou, and the leading consumer groups, including Consumers Union, the Consumers Federation of America, and the American Antitrust Institute. This legislation passed the Judiciary Committee last year.

The reasons for this legislation are compelling. Allowing manufacturers to set minimum prices threatens the very existence of discounting and discount stores, and lead to higher prices for consumers. For nearly a century the rule against vertical price fixing has been a cornerstone of antitrust law. Since the Leegin decision has begun to undo the very existence of discounting and discount stores—stores like Target, Best Buy, Walmart, and the internet sites Amazon and eBay, which offer consumers a wide array of highly desired products at discount prices.

Ample evidence exists of the pernicious effect of allowing vertical price fixing. For nearly 40 years until 1975 when Congress passed the Consumer Goods Pricing Act, Federal law permitted States to enact so-called ‘fair trade’ laws legalizing vertical price fixing. Studies the Department of Justice conducted in the late 1960s indicated that prices were 18–27 percent higher in the States that allowed vertical price fixing than the States that had not passed such ‘fair trade’ laws, costing consumers at least $2.1 billion per year at that time.

Since the tremendous growth in the intervening decades, the likely harm to consumers if vertical price fixing were permitted is even greater today. In his dissenting opinion in the Leegin case, Justice Breyer estimated that if only 10 percent of manufacturers engaged in vertical price fixing, the volume of commerce affected today would be $300 billion, translating into retail bills that would average $750 to $1,000 higher at the average family of four every year.

The experience of the last three years since the Leegin decision has begun to confirm our fears regarding the dangers from permitting vertical price fixing. The Wall Street Journal reported that more than 5,000 companies have implemented minimum pricing policies. A new business—known as ‘internet monitors’—has materialized for companies that scour the Internet in search of retailers selling products at a bargain. When such bargain sellers are detected, the manufacturer is alerted so that they can demand the seller
end its discounting. There have been many reports of everything from consumer electronics and video games to baby products and toys, rental cars and bicycles being subject to minimum retail pricing policies.

Defenders of the Leegin decision argue that today’s giant retailers such as Wal-Mart, Best Buy or Target can “take care of themselves” and have sufficient market power to fight manufacturer efforts to impose retail prices. Whatever the merits of that argument, I am particularly worried about the effect of this new rule permitting minimum vertical price fixing on the next generation of discount retailers. If new discount retailers can be prevented from selling products at a discount at the behest of an established retailer worried about the competition, we will imperil an essential element of retail competition so beneficial to consumers.

In overturning the per se ban on vertical price fixing, the Supreme Court in Leegin announced this practice should instead be evaluated under what is known as the “rule of reason.” Under the rule of reason, a business practice is illegal only if it imposes an “unreasonable restraint on competition.” The burden is on the party challenging the practice to prove in court that the anti-competitive effects of the practice outweigh its justifications. In the words of the Supreme Court, the party challenging the practice must establish the restraint’s “history, nature and effect.” Whether the businesses involved possess market power “is a further, significant consideration” under the rule of reason.

In short, establishing that any specific example of vertical price fixing violates the rule of reason is an onerous and difficult burden for a plaintiff in an antitrust case. Parties complaining about vertical price fixing are likely to be small discount stores or consumers with limited resources to engage in lengthy and complicated antitrust litigation. These plaintiffs are unlikely to possess the facts and complicated economic evidence necessary to make the extensive showing necessary to prove a case under the “rule of reason.” In the words of former FTC Commissioner Pamela Jones Harbour, applying the rule of reason to vertical price fixing “is a virtual impossibility for per se legality.”

Our Antitrust Subcommittee conducted two extensive hearings into the Leegin decision and the likely effects of abolishing the ban on vertical price fixing in the last two Congresses. Both former FTC Chairman Robert Pitofsky and former FTC Commissioner Harbour strongly endorsed restoring the ban on vertical price fixing. Marcy Syms, CEO of the Syms discount clothing stores, and a senior executive of the Burlington Coat Factory discount chain testified about the dangers to the ability of discounters such as Syms to survive after abolition of the rule against vertical price fixing.

Ms. Syms also stated that “it would be very unlikely for her to bring an antitrust suit” challenging vertical price fixing under the rule of reason because her company “would not have the resources, knowledge or a strong enough position in the market place to make a showing necessary to establishing the ability of the issue has produced compelling evidence for the continued necessity of a ban on vertical price fixing to protect discounting and low prices for consumers.

The Discount Pricing Consumer Protection Act will accomplish this goal. My legislation is quite simple and direct. It would simply add one sentence to Section I of the Sherman Act—the basic provision addressing combinations in restraint of trade—a statement that any agreement with a retailer, wholesaler or distributor setting a price below which a product or service cannot be sold violates the law. No balancing or protracted legal proceedings would be necessary. Should a manufacturer enter into such an agreement it will unquestionably violate antitrust law. The uncertainty and legal impediments to antitrust enforcement of vertical price fixing will be replaced by simple and clear legal rule—a legal rule that will promote low prices and discount competition to the benefit of consumers every day.

In the last few decades, millions of consumers have benefited from an explosion of retail competition from new large discounters in virtually every product, from clothing to electronics to guitars, in both “big box” stores and on the Internet. Our legislation will correct the Supreme Court’s abrupt change to antitrust law, and will ensure that today’s vibrant competitive retail marketplace and the savings gained by American consumers from discounting will not be jeopardized by the abolition of the ban on vertical price fixing. I urge my colleagues to support this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the text of the bill was ordered to be printed in the Record, as follows:

S. 75

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

SEC. 1. SHORT TITLE.

This Act may be cited as the “Discount Pricing Consumer Protection Act.”

SEC. 2. STATEMENT OF FINDINGS AND DECLARATION

(a) FINDINGS.—Congress finds the following:

(1) From 1911 in the Dr. Miles decision until June 2007 in the Leegin decision, the Supreme Court had ruled that the Sherman Act forbid in all circumstances the practice of a manufacturer setting a minimum price below which a retailer or distributor could not sell the manufacturer’s product (the practice of “resale price maintenance” or “vertical price fixing”).

(2) The rule against legality forbidding resale price maintenance promoted price competition and the practice of discounting all to the substantial benefit of consumers and the health of the economy.

(3) Many economic studies showed that the rule against resale price maintenance led to lower prices and promoted consumer welfare.

(4) Abandoning the rule against resale price maintenance will likely lead to higher prices paid by consumers and substantially reduced competition.

(b) PURPOSES.—The purposes of this Act are—

(1) to correct the Supreme Court’s mistaken interpretation of the Sherman Act in the Leegin decision; and

(2) to restore the rule that agreements between manufacturers and retailers, distributors or wholesalers to set the minimum price below which a product or service cannot be sold violates the Sherman Act.

SEC. 3. PROHIBITION ON VERTICAL PRICE FIXING.

(a) AMENDMENT TO THE SHERMAN ACT.—Section 1 of the Sherman Act (15 U.S.C. 1) is amended by adding after the first sentence of subsection (a) the following: “Any contract, combination, conspiracy or agreement setting a minimum price below which a product or service cannot be sold by a retailer, wholesaler, or distributor shall violate this Act.”

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 90 days after the date of enactment of this Act.

By Mrs. HUTCHISON (for herself, Mr. BEGICH, Mr. BARRASSO, Mr. CORNYN, Mr. AXELROD, and Mr. THUNE):

S. 80. A bill to provide a permanent deduction for State and local general sales taxes; to the Committee on Finance.

Mrs. HUTCHISON. Mr. President, I am pleased to introduce a bill to permanently correct an injustice in the tax code that has harmed citizens in many States of this great Nation.

State and local governments have various alternatives for raising revenue. Some levy income taxes, some use property taxes, and some a combination of the two. The citizens who pay State and local income taxes have been able to offset some of their Federal income taxes by receiving a deduction for those State and local income taxes. Before 1986, taxpayers also had the ability to deduct their sales taxes. The philosophy behind these deductions is simple: people should not have to pay taxes on their taxes. The money that people must give to one level of government should not also be taxed by another level of government.

Unfortunately, citizens of some States were treated differently after
1986 when the deduction for State and local sales taxes was eliminated. This discriminated against those living in States, such as my home State of Texas, with no income taxes. It is important to remember the lack of an income tax does not mean citizens in these States do not pay State taxes; revenues are simply collected differently.

It is unfair to give citizens from some States a deduction for the revenue they provide their State and local governments, while not doing the same for citizens from other States. Federal tax law should not treat people differently on the basis of State residence and differing tax collection methods, and it should not provide an incentive for States to establish income taxes over sales.

This discrepancy has a significant impact on Texas. According to the Texas Comptroller, extending the deduction would save Texans a projected $1.2 billion a year, or an average of $520 per filer claiming the deduction. The Texas Comptroller also estimates continuing this deduction is associated with 15,700 to 25,700 Texas jobs and $1.1 billion to $1.4 billion in gross state product.

Recognizing the inequity in the tax code, Congress reinstated the sales tax deduction in 2004 and authorized it for 2 years. Congress further extended the sales tax deduction in 2006 and 2008, respectively. On January 1, 2010, however, the sales tax deduction expired, and, for much of this past year, many Americans once again faced the prospect of paying Federal income taxes on their State and local sales taxes.

Fortunately, under the recent agreement to extend the broader tax relief for all Americans, Congress staved off the return of the sales tax deduction by extending it for 2 years, retroactive to January 1, 2010. However, this deduction only goes through 2011 and we must act to prevent the inequity from returning.

The legislation I am offering today will fix this problem for good by making the State and local sales tax deduction permanent. This will permanently end the discrimination suffered by my fellow Texans and citizens of other States who do not have the option of an income tax deduction.

This legislation is about reestablishing equity to the tax code and defending the important principle of eliminating taxes on taxes. I hope my fellow Senators will support this effort and pass this legislation, and I appreciate the backing of Senators BARRASSO, BEGICH, CORNYN, ALBRIGHT, and THUNE who have already signed on as co-sponsors.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "San Francisco Bay Restoration Act".

SEC. 2. SAN FRANCISCO BAY RESTORATION GRANT PROGRAM.

Title I of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) is amended by adding at the end the following:

"SEC. 123. SAN FRANCISCO BAY RESTORATION GRANT PROGRAM.

"(a) DEFINITIONS.—In this section:

"(1) ANNUAL PRIORITIZATION.—The term "annual prioritization" means the annual prioritization required under subsection (b).

"(2) COMPREHENSIVE PLAN.—The term "comprehensive plan" means—

"(A) the comprehensive conservation and management plan approved under section 320 for the San Francisco Bay estuary; and

"(B) any amendments to that plan.

"(3) ESTUARY PARTNERSHIP.—The term "Estuary Partnership" means the San Francisco Estuary Partnership, the entity that is designated as the management conference under section 320.

"(4) ANNUAL PRIORITIZATION.—

"(1) IN GENERAL.—After providing public notice, the Administrator shall annually compile a priority list identifying and prioritizing the activities, projects, and studies intended to be funded with the amounts made available under subsection (c).

"(2) INCLUSIONS.—The annual priority list compiled under paragraph (1) shall include—

"(A) information on the activities, projects, programs, or studies specified under subparagraph (A), including a description of—

"(i) the identities of the financial assistance recipients; and

"(ii) the communities to be served; and

"(C) the criteria and methods established by the Administrator for selection of activities, projects, and studies.

"(5) CONSULTATION.—In developing the priority list under paragraph (1), the Administrator shall consult with and consider the recommendations of—

"(A) the Estuary Partnership;

"(B) the State of California and affected local governments in the San Francisco Bay estuary watershed; and

"(C) any other relevant stakeholder involved with the protection and restoration of the San Francisco Bay estuary that the Administrator determines to be appropriate.

"(6) GRANT PROGRAM.—(A) MAXIMUM AMOUNT OF GRANTS.—Non-Federal share.—of any eligible activity or project under this section shall not exceed 75 percent of the total cost of that activity or project.

"(A) M INIMUM AMOUNT OF GRANTS.—Non-Federal share.—

"(B) NON-FEDERAL SHARE.—The non-Federal share of the total cost of any eligible activity or project that is carried out using amounts provided under this section shall be—

"(i) not less than 25 percent; and

"(ii) provided from non-Federal sources.

"(A) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator to carry out this section sums as are necessary for each of fiscal years 2012 through 2021.

"(2) ADMINISTRATIVE EXPENSES.—Of the amount made available to carry out this section for a fiscal year, the Administrator
shall use not more than 5 percent to pay administrative expenses incurred in carrying out this section.

(3) RELATIONSHIP TO OTHER FUNDING.—Nothing in this Act shall affect the eligibility of the Estuary Partnership to receive funding under section 323(g).

(4) PROHIBITION.—No amounts made available under subsection (c) may be used for the administration of a management conference under section 320.

By Mr. BINGAMAN (for himself and Ms. MURKOWSKI):

S. 99. A bill to promote the production of molybdenum-99 in the United States for medical isotope production, and to phase out the import of highly enriched uranium for the production of medical isotopes; to the Committee on Energy and Natural Resources.

Mr. BINGAMAN. Mr. President, today I am introducing the American Medical Isotopes Production Act of 2011. The purpose of the bill is to provide certainty in developing a domestic supply of molybdenum-99, which is used worldwide for the production of molybdenum-99 and technetium-99m, the most widely used medical isotopes in the United States. Right now we import all of our molybdenum-99 from outside the United States, primarily Canada and the Netherlands, from reactors that are old and that will most likely be shut down within the next 10 years. In addition, this bill moves us away from using highly enriched bomb-grade uranium targets to those that are low-enriched; that is, that are less than 20 percent in the fissile isotope uranium-235. This is a very important nonproliferation goal because the world is currently in discussion with Iran on replacing fuel and targets from their medical isotope reactor; we should lead by example in dealing in this area with countries like Iran that can now enrich nuclear fuel.

The Committee on Energy and Natural Resources held a very detailed administration of a management conference hearing on this topic last Congress. The bill we reported unanimously had a wide body of support among the medical isotopes and non-proliferation communities. I am attaching several letters from the last Congress as evidence of the wide support for this bill.

The new bill that I am introducing today is identical to the bill reported by the Committee in the last Congress, H.R. 3276, as amended. There are only two differences between this bill and the one from the last Congress. The authorization level has been lowered by $20 million to account for the fact that we are in fiscal year 2011 and not fiscal year 2010, and technical PAYGO language has been added.

Mr. President, I ask unanimous consent that the text of the bill and letters of support be printed in the RECORD.

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

S. 99

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
SEC. 4. REPORT ON DISPOSITION OF EXPORTS. Not later than 1 year after the date of the enactment of this Act, the Chairman of the Nuclear Regulatory Commission, after consulting with other relevant agencies, shall submit to the Congress a report detailing the current status of the United States exports of highly enriched uranium, including—

(1) their location;
(2) whether they are irradiated;
(3) whether they have been used for the purpose stated in their export license;
(4) whether they have been used for an alternative purpose; and if so, whether such alternative purpose has been explicitly approved by the Commission;
(5) the year of export, and reimportation, if applicable;
(6) their current physical and chemical forms; and
(7) whether they are being stored in a manner which adequately protects against theft and unauthorized access.

SEC. 5. DOMESTIC MEDICAL ISOTOPE PRODUCTION.

(a) IN GENERAL.—Chapter 10 of the Atomic Energy Act of 1954 (42 U.S.C. 2131 et seq.) is amended by adding at the end the following new section:

"SEC. 112. DOMESTIC MEDICAL ISOTOPE PRODUCTION. —(A) The Commission may issue a license, or grant an amendment to an existing license, for the use of the United States of highly enriched uranium as a target for medical isotope production in a nuclear reactor, only if—

(1) in addition to any other requirement of this Act—

(1) the Commission determines that—

(A) there is no alternative medical isotope production target, enriched in the isotope U-235 to less than 20 percent, that can be used in that reactor; and
(B) the proposed recipient of the medical isotope production target has provided assurances that, whenever an alternative medical isotope production target can be used in that reactor, it will use that alternative in lieu of highly enriched uranium; and

(2) the Secretary of Energy has certified that the United States Government is actively supporting the development of an alternative medical isotope production target that can be used in that reactor.

(b) As used in this section—

(1) the term ‘alternative medical isotope production target’ means a nuclear reactor target which is enriched in less than 20 percent of the isotope U-235;

(2) the target can ‘be used’ in a nuclear research or test reactor if—

(A) the target has been qualified by the Reduced Enrichment Research and Test Reactor of the Department of Energy; and

(B) use of the target will permit the large majority of ongoing and planned experiments and isotope production to be conducted in the reactor without a large percentage increase in the total cost of operating the reactor;

(3) the term ‘highly enriched uranium’ means uranium enriched to 20 percent or more in the isotope U-235; and

(4) the term ‘medical isotope’ includes molybdenum-99, iodine-131, xenon-133, and other radioactive materials used to produce a radiopharmaceutical for diagnostic, therapeutic, or research purposes; and

(b) TABLE OF CONTENTS.—The table of contents for the Atomic Energy Act of 1954 is amended by inserting the following new item at the end of the items relating to chapter 10 of title I:

"Sec. 112. Domestic medical isotope production."

SEC. 6. ANNUAL DEPARTMENT OF ENERGY REPORTS. The Secretary of Energy shall report to Congress—

(a) at least one year after the date of enactment of this Act, and annually thereafter for 5 years, on Department of Energy actions to support the production in the United States of highly enriched uranium, of molybdenum-99 for medical uses. These reports shall include the following:

(1) For medical isotope development projects—

(A) the names of any recipients of Department of Energy support under section 2 of this Act;

(B) the amount of Department of Energy funding committed to each project;

(C) the milestones expected to be reached for each project during the year for which support is provided;

(D) how each project is expected to support the increased production of molybdenum-99 for medical uses;

(E) the findings of the evaluation of projects under section 2(a)(3) of this Act; and

(F) that any Federal funds used to support projects under section 2 of this Act.

(2) A description of actions taken in the previous year by the Secretary of Energy to ensure the safe disposition of radioactive waste from use of molybdenum-99 targets.

SEC. 7. NATIONAL ACADEMY OF SCIENCES REPORT. The Secretary of Energy shall enter into an arrangement with the National Academy of Sciences to conduct a study of the state of molybdenum-99 production and utilization, to be provided to the Congress not later than 5 years after the date of enactment of this Act. This report shall include the following:

(1) For molybdenum-99 production—

(A) a list of all facilities in the world producing molybdenum-99 for medical uses, including an indication of whether these facilities use highly enriched uranium in any way;

(B) a review of international production of molybdenum-99 over the previous 5 years, including—

(i) whether any new production was brought online;

(ii) whether any facilities halted production unexpectedly; and

(iii) whether any facilities used for production were decommissioned or otherwise permanently removed from service; and

(C) an assessment of progress made in the previous 5 years toward establishing domestic production of molybdenum-99 for medical uses, including the extent to which other medical isotopes that have been produced with molybdenum-99, such as iodine-131 and xenon-133, are being used for medical purposes.

(2) An assessment of the progress made by the Department of Energy and others to take up and pass the American Medical Isotopes Production Act of 2009 (H.R. 3276) as a standalone bill or as an amendment to an appropriate legislative vehicle. Recent disruptions in the international supply of molybdenum-99 (Mo-99) have highlighted the urgent need to ensure supply security for the U.S. H.R. 3276 would help to ensure a domestic supply of Mo-99 over the long term and curtail the use of highly-enriched uranium (HEU) in radionuclide production as a non-proliferation strategy to deter terrorism.

As you know, the House of Representatives approved this bill by an overwhelming vote of 400—17 on November 5, 2009 and the Senate Energy and Natural Resources Committee reported this bill favorably with amendments on January 28, 2010. SNM believes that rapid passage of this legislation is essential to ensure Americas’ access to vital medical radionuclides and give patients timely access to appropriate healthcare services.

Molybdenum-99 (Mo-99) decays into Technetium-99m (Tc-99m), which is used in approximately 16 million nuclear medicine procedures each year in the U.S. Tc-99m is used in the detection and staging of cancer, detection of heart disease, detection of thyroid disease, study of brain and kidney function, and imaging of stress fractures. In addition to interrupting the unneeded use of disease, physicians can actually see how a disease is affecting other functions in the body. Imaging with Tc-99m is an important part of the Congress’ overall report on radioactive materials, which have been used by physicians since 1948. SNM, a group of more than 25,000 nuclear medicine physicians in the U.S., has, over the course of the last two years, been disturbed about supply interruptions of Mo-99 due to the cancellation of a reliable supplier of Mo-99 in the U.S. Due to these recent shutdowns in Canada, numerous nuclear medicine professionals across the country that have depended on Mo-99 have delayed or canceled imaging procedures. Because Mo-99 is produced through the fission of uranium and has a half-life of 66 hours, it cannot be produced on demand and then stored for long periods of time. Unlike traditional pharmaceuticals, which are dispensed by pharmacists or sold over-the-counter,
counter, nuclear reactors produce radioactive isotopes that are processed and provided to hospitals and other nuclear medicine facilities based on demand. Any disruption to that supply chain can wreak havoc on patient access to important medical imaging procedures.

In order to ensure that patient needs are not compromised, a continuous reliable supply of medical radioisotopes is essential.

Currently there are no facilities in the U.S. that are dedicated to manufacturing Mo-99 for Mo-99/Tc-99m generators. The United States must develop domestic capabilities to produce Mo-99 and not rely solely on foreign suppliers. The legislation encourages domestic production of Mo-99 for medical isotopes without HEU in two different ways. First, it would facilitate the operation of new facilities by granting the government the ability “to retain responsibility for the final disposition of radioactive waste” under uranium-lease agreements. The Department of Energy (DoE) does not currently have this ability and cannot assume the responsibility for disposition of radioactive waste under federal leases.

The bill also authorizes government cost-sharing which would subsidize construction of production facilities. Without the multiyear authorization that is included in H.R. 3276, investments in domestic productive facilities will be prohibitively uncertain.

There is significant support for passing this piece of legislation, which has been endorsed by a variety of organizations. Further, a House Energy and Environment Subcommittee on September 9, 2009, Parrish Staples, the U.S. official who oversees medical isotope production at DoE’s National Nuclear Security Administration (NNSA) testified as follows:

“NNSA is working on several Cooperative Agreements to potential commercial Mo-99 producers, whose projects are in the most advanced stages of development, accelerating their efforts to begin producing Mo-99 in quantities adequate to the U.S. medical community’s demand by the end of 2013. . . . The American Medical Isotopes Production Act of 2009 is crucial to ensuring the success of these efforts to increase domestic production of Mo-99 with the use of HEU.

At the subsequent Senate hearing, Dr. Staples stated:

“Currently, we are working or we would intend to work that we would develop four independent technologies, each capable of supplying up to 50 percent of the U.S. demand. Obviously, in theory, that means that if each of these are successful, we could supply the global requirement for this isotope”—roughly twice the U.S. domestic demand—under the legislation. The projected U.S. domestic production capacity could satisfy US demand prior to the cutoff of HEU exports, even if only half of the four main projects succeeded.”

Passage of this legislation is necessary to help address the future needs of patients by promoting the production of Mo-99 in the United States. We thank you for your efforts and look forward to continuing to work with you on this important issue. Should you have any further questions, please contact Cindy Tomlinson, Associate Director, Health Policy and Regulatory Affairs at ctominson@amsn.org or 703.336.1187.

Sincerely,

DOMINIQUE DELBEKE,
President.
short six-hour half-life of Tc–99m, while ben-
eficial to patients and health care profes-
sionals, precludes any efforts to maintain an
inventory. In addition, the domestic supply of
Mo–99 is uncertain. The production of Mo–99m-generators is entirely dependent upon aging foreign reac-
tors that have faced extended shut downs for repair and maintenance.

As a consequence, the U.S. supply has been repeatedly and significantly disrupted. Many patients who need imaging with Tc–99m-based radiopharmaceuticals are now facing lengthy delays in the availability of nuclear medicine imaging, or being forced to resort to alternative diagnostic and therapeutic procedures that can involve the potential of more invasive procedures (with possible higher clinical risks to patients), greater ra-
diation dosage, lower accuracy, and higher costs.

Additionally, the reliance on foreign reac-
tors for the supply of Mo–99 requires the U.S. to ship high enriched uranium, material of interest for use in nuclear terrorism, out of the country. Domestic production of Mo–99 will eliminate the risk that this nuclear ma-
terial can be diverted for terrorists' use, thus increasing the effectiveness of the U.S. pro-
gram for non-proliferation of nuclear mate-
rials.

The coalition believes the initiative being led by the National Nuclear Security Admin-
istration through the Global Threat Reduc-
tion Initiative with oversight and inter-
agency review by the Office of Science and Technology Policy has the capability to achieve the establishment of a reliable do-
monic production of Mo–99 within the next ten years. The Congress has appropriated sufficient support for fiscal year 2010. The re-
main ing task is to obtain congressional sup-
port through authorizing legislation that will serve as a basis for the ad-
ministration's program into the future.

In order to avoid compromising patient care and increasing medical costs, a contin-
uous and reliable supply of medical radioisotopes is clearly essential. It is also critical that domestic production capability for Mo–99 be developed. H.R. 3276 provides the needed support to accelerate the process of conversion so that the industry can move forward. By Ms. COLLINS (for herself, Mr. LEARY, and Ms. SNOWE):

S. 112. A bill to authorize the applica-
tion of State law with respect to vehi-
cle weight limitations on the Inter-
state Highway System in the states of
Maine and Vermont; to the Committee
on Environment and Public Works.

S. Collins, Mr. President, improv-
ing public safety, growing our econ-
omy, increasing energy independence,
and protecting the environment have always been among my top priorities as a Senator. Today, the very first bill I am introducing in this new Congress will advance all of those goals by al-
lowing the heaviest trucks to travel on our Federal interstate highways in Maine, as well as in Vermont.

I am delighted to have the senior Senator from Vermont, PATRICk LEARY, as my Democratic cosponsor, and my good friend and colleague from the State of Maine, VERNON SNOWE, also as an original cosponsor. Vermont has the same problem as we do in Maine. Thus the bill I am introducing applies to our two States.

In 2009, I authored a law to establish a 1- year pilot project that allowed trucks weighing up to 100,000 pounds to travel on Maine's Federal interstates—
I-95, 195, 295, and 385. According to the results of a preliminary study by the Maine Department of Transportation, this pilot project, which ran until mid-
December of last year, helped to pre-
serve and create jobs by allowing Maine's businesses to receive raw ma-
terials and to ship their products more economically.

Also important, the pilot program improved safety, saved energy, and re-
duced carbon emissions. Let me give a specific example. On a trip from Hamp-
den to Houlton, ME, the benefits are obvious. A truck traveling on I-95 rath-
er than on Route 2 avoids more than
2.768 intersections, 9 school crossings, 30 traffic lights, and 86 crosswalks. In addi-
tion, the driver also saves more than $30 on fuel. Given the cost of diesel, it is probably even higher than that now. Additionally, 50 minutes are saved by traveling on I-95 rather than on the secondary road of Route 2.

Unfortunately, despite the clear suc-
cess of this pilot project and the strong support of the administration and many of my colleagues in the Senate, the House of Representatives failed to include my provision making the pilot permanent in the Federal funding bill. As a result, for both Maine and Vermont, the program expired on De-
cember 17 and the heavy trucks are once again unable to use our state's most modern, safe, and efficient highways.

It is important to emphasize that our legislation does not increase the size or

the weight of trucks in our States. Maine law already allows trucks weighing
up to 100,000 pounds to operate on State and municipal roads. Heavy trucks already operate on some 22,500 miles of non-Interstate roads in Maine, in addition to the approximately 167 miles of the Maine turnpike. But the nearly 260 miles of non-turnpike inter-
states that are the major economic corridors in my State are off limits. This simply makes no sense.

The current 100,000 pound limit evauluating up to 100,000 pounds are already permitted on many Federal interstates in New Hampshire, Massachusetts, New York, and the neighboring provinces in Can-
ada. So that puts Maine and Vermont at a distinct competitive disadvantage. All around us, the States and our Can-
dian counterparts allow the heavier trucks to use the Federal interstates, but unfortunately Maine and Vermont have been excluded. That is why my friend from Vermont, Senator LEARY, has joined me in the effort to help pro-
vide a level playing field for our States.

Here are a few more important points about our bill.

First, 100,000 pound trucks are not larger nor wider than 80,000-pound trucks. This change would remove an estimated 7.8 million truck miles from our local roads and streets. Increasing the truck paylo ays by 35 percent would re-
move the overall number of trucks needed. In addition, by traveling fewer miles, the steady pace of interstate driving improves the fuel economy of trucks by 14 to 21 percent. And the Maine Department of Trans-
portation's engineers say they are con-
fident our interstate bridges are safe and can handle the additional weight in the State of Maine.

Countless Maine small business own-
ers have told me how this change would improve their competitiveness. For example, a recent press con-
ference, Keith Van Scoter discussed the savings his company accrued under the pilot project. Under the pilot project, his company Lincoln Paper and Tissue was able to save 1.1 million billable truck miles, a 28 percent de-
crease from the year before. These sav-
ings are the equivalent of the company being 220 miles closer to its primary market. Also, the owner-operator of a logging business in Penobscot County said being able to transport his pulpwood to the mill on I-95 rather than on secondary roads would save his company at least 118 gallons of fuel each week. That benefits not only this small business but also our Nation as we seek to reduce our overall fuel con-
sumption and reduce carbon emissions.

The pilot program has also made a dramatic improvement for some of our communities. According to the Maine DOT, before the pilot program began last December of 2009, more than 200 heavy truck heading north on Route 201 crawled through downtown Vassalboro a small town of about 4,000—each day even though I-95 runs
parallel just a few miles away. During the span of the pilot program, the number of northbound trucks on Route 201 decreased by roughly 90 percent. These trucks were using the interstate where they belong.

I will tell you that since the pilot project expired, some of my constituents have talked to me about the return of these heavy trucks to the residential neighborhoods in which they live. In our downtown Portland, Oranco, Brewer, Freeport, and other towns throughout our State. The fact is, this kind of road congestion caused by diverting these heavy trucks into downtowns and along secondary roads can lead to tragedy. A study conducted by a nationally recognized traffic consulting firm found that the crash rate of semitrailer trucks on Maine's secondary roads were 7 to 10 times higher than on the turnpike. It estimated that allowing trucks to run on the interstates could result in three fewer fatal crashes each year. Public safety agencies in Maine, including the Maine State Police, have long supported my efforts to bring about this change. In fact, our police chiefs provided me with a press conference last week where they spoke eloquently about the safety implications for downtown Bangor.

In 2010, as a result of this pilot project, people throughout our State saw their roads less congested, our States safer, our air cleaner, and, most important, our businesses more competitive. That is why I am so committed to ensuring that these improvements are allowed to continue and are made permanent.

This legislation simply is common sense. It will benefit our economy as well as lower fuel costs and make our roads safer for most tourists and pedestrians. As you are no doubt aware, too many of us are subjected to the noise and air pollution from the heavy trucks on the interstates. These trucks weigh 80,000 pounds to replace two trucks operating at 80,000 pounds to replace three trucks operating at 80,000 pounds to replace approximately three trucks operating at 80,000 pounds to replace two trucks operating at 100,000 pounds to haul the same amount of freight.

In fact, a study by the American Transportation Research Institute (ATRI) commissioned by the Maine DOT found that the fuel efficiency of these rigs would improve up to 21 percent by allowing state weight limits on the entire highway system and emissions would decrease from 6 to 11 percent. Extrapolating their findings over an entire week resulted in savings of as much as 675 gallons of diesel fuel, up to 6.8 metric tons of CO2 and almost 94 grams of Particulate Matter. Yes, that's each week only and from trucks shifting from Route 9 to 1-95 once the weight limit exemption pilot project expires. This effect has gone away now that the pilot project has expired.

Safety, however, is the most important reason to embrace this pilot project and we are proud that the safety record of the trucking industry continues to improve. Federal Highway Administration statistics have shown a consistent improvement by the trucking industry, with current crash rates at the lowest levels since the U.S. Department of Transportation began tracking truck safety records in 1975. Not resting on our accomplishments, the trucking industry is actively working on ways we can improve highway safety and promote fuel conservation, all while lessening our dependence on foreign oil. The whole notion that heavier trucks will use more fuel and pollute more is inherently false, especially since it would take approximately three trucks operating at 80,000 pounds to replace two trucks operating at 100,000 pounds to haul the same amount of freight.

Hon. SUSAN COLLINS, Dirkson Senate Office Building, Washington, DC. DEAR SENATOR COLLINS: First and foremost, thank you again for being a champion for the effort to increase the truck weight limits on Maine's interstate highways. Without your diligence and dedication to this extremely important matter, any further progress to correct the inconceivable injustice of the current law would be most assuredly abandoned for the foreseeable future. Your legislation, which would allow trucks weighing up to 100,000 pounds on all of Maine's interstate highways, would correct this injustice once and for all.

I would like to reiterate what I have previously stated regarding the present law that caps truck weights over 80,000 pounds off Maine's interstate highways. These trucks do not belong on Maine's city streets and secondary roads, just as they do not belong on those of New Hampshire, Massachusetts, and New York. I, along with other Maine chiefs of police across the state, believe that these trucks pose a significant risk to the safety of citizens as they travel upon the populated city streets and narrow and winding rural roads of Maine's cities and towns. We have seen, first hand, how these trucks pose to Maine citizens as they travel on our secondary roads. The constant changing of speeds and their repeated starts and stops create hazardous driving conditions for local traffic, and their presence have resulted in traffic accidents and tragedies.
During the winter months, Maine’s secondary roads become much narrower, rural roads are more slippery, and speed limits are reduced, thereby increasing the danger to pedestrians and other drivers. No matter how experienced the truck driver may be, they cannot stop these trucks on a dime; they cannot anticipate every situation that can occur in heavily populated areas, and they cannot prevent the shifting of their heavy loads from occurring.

It is important to do everything possible to insure safety for the public. Therefore, I offer my utmost support for your legislation that will keep these heavy loads on Maine’s interest where they belong. I continue to encourage you and others, like Senator Leahy of Vermont, to continue your efforts to keep these 100,000 pound trucks on interstate highways, and off our local streets and rural roads.

Sincerely,
RONALD K. GASTIA
Chief of Police.

PROFESSIONAL LOGGING CONTRACTORS,
Hon. SUSAN COLLINS,
U.S. Senate, Dirksen Senate Office Building,
Washington, DC.

DEAR SENATOR COLLINS: I am writing to express the Professional Logging Contractors of Maine’s full support for your proposed legislation to permanently allow trucks weighing up to 100,000 pounds to use federal Interstate highways in Maine and Vermont. Our members—foresters, loggers, truckers, wood-using mills, and associated businesses, as well as our families and neighbors—all rely on safe and efficient transportation of goods and services by truck for our livelihoods.

Our industry relies on trucks to deliver raw materials from the forest to our mills and shipment of finished product to market. We are surrounded by states and provinces which allow higher Interstate truck weights, putting our industry in rural Maine at a significant disadvantage.

The federal Interstate system is designed and built to handle these loads, as are Maine highways. These trucks should be able to utilize this system, taking unnecessary traffic off of state and local highways and out of communities. FRA believes that, within reasonable guidelines, each state should have the right to adjust weight limits on Interstates within its borders to conform with its needs.

By all accounts, last year’s pilot project in Maine and Vermont allowing these trucks to access Interstate highways was tremendously successful. Attached is a Forest Resources Association Technical Release presenting testimony on the pilot’s benefits. The loss of the pilot in December was a real blow to our industry and rural communities.

Reintroducing this pilot is one action Congress can take which immediately benefits both industry and the public without imposing new burdens on taxpayers. The benefits are clear:

Safety Benefits—Fewer miles travelled, on safer roads, with fewer crashes.

Environmental Benefits—Reduced fuel usage, reduced emissions.

Economic Benefits—Reduced wear on secondary roads, improved efficiency for haulers.

Please let me know if there is anything FRA can do to promote your legislation, and thank you again for your continued support for Maine’s forest products community.

Sincerely,
JOEL SWANTON
Region Manager.

H.O. BOUCHARD
Transportation Services,
Holbrook, ME, January 21, 2011.
Hon. SUSAN COLLINS,
Dirksen Senate Office Building,
Washington, DC.

DEAR SENATOR COLLINS: I am writing on behalf of H.O. Bouchard in favor of allowing trucks weighing up to 100,000 pounds gross vehicle weight on Interstates in Maine. We are a major forest carrier in Maine whose fleet is made up of 6-axle units transporting heavy bulk products throughout Maine, Canada, New Hampshire, Massachusetts, Rhode Island and New York. These products include: cement powder, liquid asphalt, fuel oil, road salt, raw forest products, chemicals, logs and machinery. We have done this safely for 27 years.

I ask that you help those who are not from this area to understand that the whole New England area (with the exception of Vermont), New York and Canada allow up to at least 99,000 pounds on 6 axle combination units. New York allows more than 100,000 pounds and Canada allows more than 109,000 lbs. on 6 axles. The only areas that do not are a very small slice of Maine that is Interstates 95, 285, 386 and interstates in Vermont. Presently the freight moves on 6 axle units, but on secondary roads. Commerce to and from Bangor to Aroostook County must travel on secondary Route 2, rather than 1–95. Presently the freight moves on 6 axle units, but on secondary roads.

This commercial traffic is very noticeable in all of the small towns where the trucks must constantly stop and start for RR crossings, bridge and road durability, commerce, truck volumes, and energy use in Vermont.

During the past year I have heard from a number of Vermont truckers, business owners, and state and local officials why support extending the pilot program because of the economic and safety benefits they saw when the trucks were on the Interstates. Most importantly, many Vermonters reported a significant reduction of heavy truck traffic incursorv towns and villages.

Unfortunately, last month the leadership on the other side of the aisle...
block what I believe was a provision in the omnibus budget bill that included a provision Senator Collins and I authored to extend the Vermont and Maine truck weight pilot programs for another year. This sudden and senseless reversal of a previous commitment to support the Vermont and Maine pilot projects has once again been felt in downtowns and villages throughout Vermont and Maine.

I am pleased to join with Senators Collins and Snowe in introducing this bipartisan bill today. It will stop over-weight trucks from having to rumble through our historic villages and downtowns, and it will better protect our citizens and our ailing transportation infrastructure.

I agree with the support this legislation has received from the State of Vermont, the Vermont League of Cities and Towns, the Vermont Truck and Bus Association, the Vermont Petroleum Association, the Vermont Fuel Dealers Association, and many individual businesses and municipalities throughout Vermont.

By Mr. LEAHY:

S. 132: A bill to establish an Office of Forensic Science and a Forensic Science Board, to strengthen and promote confidence in the criminal justice system by ensuring consistency and scientific validity in forensic testing, and for other purposes; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, I am proud today to introduce the Criminal Justice and Forensic Science Reform Act of 2011. This legislation is an important first step toward guaranteeing the public and scientific integrity of forensic evidence used in criminal cases, and in ensuring that Americans can have faith in their criminal justice system.

In March of 2009, the Senate Judiciary Committee began its examination of serious issues concerning forensic science, which is at the heart of our criminal justice system. The Committee has studied the problem exhaustively, and has worked with a wide array of experts and stakeholders. The legislation I introduce today is a product of this process. It seeks to strengthen our confidence in the criminal justice system, and the evidence it relies upon, by ensuring that forensic evidence and testimony is accurate, credible, and scientifically grounded.

The National Academy of Science published a report in February 2009 asserting that the field of forensic science has significant problems that urgently need to be addressed. The report called for basic research to establish the scientific validity of many forensic science disciplines that has never been done in a comprehensive way. It suggested that the forensic sciences lack uniform and unassailable standards governing the accreditation of laboratories, the certification of forensic practitioners, and the testing and analysis of evidence.

The National Academy of Science’s report is an urgent call to action. It has been hailed and widely cited since its release. It has also been criticized by many. I did not view the Academy’s report as the final word on this issue, but rather as a starting point for a searching review of the state of forensic science in this country.

Last Congress, the Judiciary Committee held two hearings on the issue. Committee members and staff spent countless hours talking to prosecutors, defense attorneys, law enforcement officers, judges, forensic practitioners, academic experts, and many, many others to learn as much as we could about what is happening in the forensic sciences and what needs to be done.

As this effort has progressed, I have been disturbed to learn about still more cases in which innocent people may have been convicted, and perhaps even executed, in part due to faulty forensic evidence. It is a double tragedy when an innocent person suffers, and a guilty person remains free, leaving us all less safe. We must do everything we can to avoid that untenable outcome.

At the same time, through the course of this inquiry, it has become abundantly clear that the men and women who test and analyze forensic evidence do tremendous work that is vital to our criminal justice system. I remember their important contributions and hard work from my days as a prosecutor, when some of the forensic disciplines we have now did not even exist. Their work is even more important today, and we need to strengthen the field of forensics—and the justice system itself—so that their hard work can be consistently relied upon, as it should be.

It is beyond question that everyone recognizes the need for forensic evidence that is accurate and reliable. Prosecutors and law enforcement officers want evidence that can be relied upon to determine guilt and prove it beyond a reasonable doubt in a court of law. Defense attorneys want strong evidence that can be used to exclude innocence. Forensic scientists want their work to have as much certainty as possible and to be given deserved deference. All scientists and all attorneys who care about these issues want the science that is admitted as evidence in the courtroom to match the science that is proven through rigorous testing and research in the laboratory.

There is also general agreement that the forensic sciences can be improved through rigorous and unassailable research to establish the validity of the forensic disciplines, as well as the application of consistent and regular standards in the field. There is a dire need for well managed and appropriately directed funding for research, development, training, and technical assistance. It is a good investment, as it will lead to fewer trials and appeals, and will reduce crime by ensuring that those who commit serious offenses are promptly captured and convicted.

There is also broad consensus that all forensic laboratories that receive Federal funding or Federal business be accredited according to rigorous standards. It requires all relevant personnel who perform forensic work for any laboratory or agency that gets Federal money to become certified in their fields, which will mean meeting basic proficiency, education, and training requirements.

The bill I introduce today seeks to address these widely recognized needs. It requires that all forensic science laboratories that receive Federal funding or Federal business be accredited according to rigorous standards. It requires all relevant personnel who perform forensic work for any laboratory or agency that gets Federal money to become certified in their fields, which will mean meeting basic proficiency, education, and training requirements.

The bill sets up a rigorous process to determine the most serious needs for research. It updates to the basic validity of the forensic disciplines, and establishes grant programs to provide for peer-reviewed scientific research to answer fundamental questions and promote innovation. It also sets up a process for this research to lead to appropriate standards and best practices in each discipline. The bill funds research into new technologies and techniques that will allow forensic testing to be done more quickly, more efficiently, and more accurately. I believe these are proposals that will be widely supported by those on all sides of this issue.

There have been of course some areas of disagreement, particularly as to who should oversee these vital reforms to the field of forensics. Some have argued that, because the purpose of forensic science is primarily to produce evidence to be used in the investigation and prosecution of criminal cases, it is vital that those regulating and evaluating forensics must have expertise in criminal justice. They have said that at the Federal level, the Department of Justice is the natural place for an office to examine and oversee the forensic sciences and have emphasized the need for forensic science practitioners to have substantial input in evaluating research and standards.

Others have argued that, for forensic science to truly engender our trust and confidence, its validity must be established by independent scientific research, and standards must be determined by scientists with no possible conflict of interest. They have argued for protections to ensure independent scientific decision making, as well as the significant involvement of Federal scientific agencies.
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Criminal Justice and Forensic Science Reform Act of 2011".

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

SEC. 1. Purpose.

SEC. 2. Definitions.


SEC. 6. Forensic Science Training and Education.


SEC. 8. Medical-Legal Death Examination.


Title V—Standards and Best Practices

Section 501. Development of Standards and Best Practices.

Section 502. Establishment and Dissemination of Standards and Best Practices.

Section 503. Review and Oversight.

Title VI—Additional Responsibilities of the Office of Forensic Science and the Forensic Science Board


Section 602. Educational Programs in the Forensic Sciences.

Section 603. Medical-Legal Death Examination.

Section 604. Inter-Governmental Coordination.

Section 605. Anonymous Reporting.

Section 606. Interoperability of Databases and Technologies.

Section 607. Code of Ethics.
under subparagraph (A), the Director shall—

(i) provide notice and an explanation of the modification proposed to the Committee on the Judiciary and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on the Judiciary and the Committee on Science and Technology of the House of Representatives; and

(ii) begin rulemaking on the record after opportunity for an agency hearing.

(f) WEBSITE.—The Director shall—

(i) establish a website that is publically accessible; and

(ii) publish recommendations of the Board and all standards, protocols, definitions, and other material established, or amended by the Director under this Act on the website.

SEC. 102. FORENSIC SCIENCE BOARD.

(a) IN GENERAL.—There is established a Forensic Science Board as an advisory board regarding forensic science in order to strengthen and promote confidence in the criminal justice system by promoting standards and best practices and ensuring consistency, scientific validity, and accuracy with respect to forensic testing, analysis, identification, and comparisons, the results of which may be interpreted, presented, or otherwise used during the course of a criminal investigation or criminal court proceeding.

(b) APPOINTMENT.—

(1) IN GENERAL.—The Board shall be composed of 19 members, who shall—

(A) be appointed by the President not later than 180 days after the date of enactment of this Act; and

(B) serve for 6 years.

(2) REQUIREMENTS.—

(A) A member shall—

(1) be a judge; and

(2) have a background or a current professional involvement in forensic science.

(B) 7 members shall serve a term of 6 years.

(C) 6 members shall serve a term of 4 years;

(D) 6 members shall serve a term of 2 years;

(E) 6 members shall serve a term of 1 year.

(c) TERMS.—An individual may serve more than 1 full term.

(d) RESPONSIBILITIES.—The Board shall—

(1) make recommendations to the Director relating to research priorities and needs, accreditation and certification standards, standards and protocols for forensic science disciplines, and any other issue consistent with this Act;

(2) monitor and evaluate—

(A) the implementation of any standard, protocol, definition, or other material established or amended under a recommendation by the Committee on the Judiciary and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on the Judiciary and the Committee on Science and Technology of the House of Representatives; and

(B) the work of the Committees.

(e) CONSIDERATION OF RECOMMENDATIONS.—

(A) IN GENERAL.—Upon receiving a recommendation from the Board, the Director shall—

(i) give substantial deference to the recommendation; and

(ii) not later than 90 days after the date on which the Director receives the recommendation, determine whether to adopt, modify, or reject the recommendation.

(B) MODIFICATIONS TO RECOMMENDATIONS.—

(i) IN GENERAL.—If the Director determines to substantially modify a recommendation under subparagraph (A), the Director shall immediately notify the Board of the proposed modification.

(ii) BOARD RECOMMENDATION.—Not later than 30 days after the date on which the Director notifies the Board under clause (i), the Board shall submit to the Director a recommendation on whether the proposed modification should be adopted.

(C) NOTICE.—If the Board recommends that a proposed modification should be adopted under clause (ii), the Director may implement the modified recommendation.

(D) REJECTION OF MODIFICATION.—If the Board recommends that a proposed modification should be adopted under clause (ii), the Director shall, not later than 10 days after the date on which the Board makes the recommendation—

(i) provide notice and an explanation of the modification proposed to the Committee on the Judiciary and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on the Judiciary and the Committee on Science and Technology of the House of Representatives; and

(ii) begin rulemaking on the record after opportunity for an agency hearing.

(f) EXCEPTION.—Of the members first appointed to the Board—

(A) 7 members shall serve a term of 6 years;

(B) 6 members shall serve a term of 4 years;

(C) 6 members shall serve a term of 2 years;

(D) 6 members shall serve a term of 1 year.

(g) RENEWABLE TERM.—A member of the Board may be appointed for not more than a total of 2 terms, including an initial term described in paragraph (2).

(h) VACANCIES.—

(i) IN GENERAL.—In the event of a vacancy, the President may appoint a member to fill the remainder of the unexpired term.

(B) ADDITIONAL TERM.—A member appointed under subparagraph (A) may be reappointed for 1 additional term.

(C) HOLDOVERS.—If a successor has not been appointed at the conclusion of the term of a member of the Board, the member of the Board may continue to serve until—

(A) a successor is appointed, or

(B) the member of the Board is reappointed.

(d) RESPONSIBILITIES.—The Board shall—

(1) make recommendations to the Director concerning the Director’s responsibilities as necessary to perform the functions of the Board.

(2) monitor and evaluate—

(A) the administration of accreditation, certification, and research programs and procedures established under this Act; and

(B) the operation of the Committees.

(3) review and update, as appropriate, any recommendations made under paragraph (1); and

(4) perform all other functions of the Board under this Act and such other related functions as are necessary to perform the functions of the Board.

(e) CONSULTATION.—The Board shall consult as appropriate with the Deputy Attorney General, the Director of the National Institute of Standards and Technology, the Director of the National Science Foundation, the Chairman of the Committee on the Judiciary, and the Chair of the Committee on Commerce, Science, and Transportation of the Senate and the Committee on the Judiciary and the Committee on Science and Technology of the House of Representatives.

(f) REQUIREMENTS.—The Board shall include—

(1) not fewer than 10 members who have comprehensive scientific backgrounds, of which—

(A) not fewer than 5 members have extensive experience or background in scientific research; and

(B) not fewer than 5 members have extensive experience or background in forensic science; and

(2) not fewer than 1 member from each category described in paragraph (4).

(4) CATEGORIES.—The categories described in this paragraph are—

(A) judges; and

(B) other Federal Government officials.

(5) FULFILLMENT OF MULTIPLE REQUIREMENTS.—An individual may fulfill more than 1 requirement described in paragraph (3) or (4).

(6) EX OFFICIO MEMBERS.—The Director and the Deputy Director shall serve as ex officio and nonvoting members of the Board.

(g) TERMS.—A member of the Board shall be appointed for a term of 6 years.

(2) REQUIREMENTS.—

(A) A member shall be appointed for 6 years.

(B) A member shall be appointed for 4 years.

(C) A member shall be appointed for 2 years.

(D) A member shall be appointed for 1 year.

(h) VACANCIES.—

(i) IN GENERAL.—A member of the Board—

(1) may resign at any time by giving notice to the President; and

(2) may be removed by the President with the advice and consent of the Senate with respect to a vacancy occurring during the last year of a term.

(i) MEETINGS.—

(1) IN GENERAL.—The Board shall hold not fewer than 4 meetings of the Board each year.

(2) REQUIREMENTS.—

(A) NOTICE.—The Board shall provide public notice of any meeting of the Board a reasonable period in advance of the meeting.
(2) COMPENSATION.—The Board may fix the compensation of the executive director and other personnel appointed under paragraph (1) without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(3) PERSONNEL AS FEDERAL EMPLOYEES.—(A) IN GENERAL.—Any personnel of the Board who are employees shall be employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, 89A, 89B, and 90 of that title.

(4) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Board may procure temporary and intermittent services under section 3354(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(5) VOLUNTARY SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the Board may accept and use voluntary and uncompensated services for the Board as the Board determines necessary.

(a) REPORTS TO CONGRESS.—Not later than 2 years after the date of enactment of this Act, and every 2 years thereafter, the Board shall submit to Congress a report describing the work of the Board and the work of each Committee, which shall include a description of any recommendations, decisions, and other significant materials generated during the 2-year period.

(b) APPLICABILITY OF THE FEDERAL ADVISORY COMMITTEE ACT.—(1) IN GENERAL.—Subject to paragraphs (2) and (3), the Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Board.

(2) TERMINATION PROVISION.—Section 14(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Board.

(3) COMPENSATION OF MEMBERS.—Members of the Board shall serve without compensation for services to the Board.

(4) TRAVEL EXPENSES.—The members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies in the executive branch of the Government 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 Board.

(5) DESIGNATED FEDERAL OFFICER.—In accordance with the Federal Advisory Committee Act (5 U.S.C. App.), the Director shall—

(A) serve as the designated Federal officer; and

(B) designate a committee management officer for the Board.

SEC. 103. COMMITTEES.

(a) ESTABLISHMENT AND MAINTENANCE OF COMMITTEES.—(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Board shall establish a list of forensic science disciplines, which shall be—

(A) serve as the designated Federal officer; and

(B) designate a committee management officer for the Board.

SEC. 103. COMMITTEES.

(a) ESTABLISHMENT AND MAINTENANCE OF COMMITTEES.—(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Board shall establish a list of forensic science disciplines, which shall be—

(A) serve as the designated Federal officer; and

(B) designate a committee management officer for the Board.

SEC. 103. COMMITTEES.

(a) ESTABLISHMENT AND MAINTENANCE OF COMMITTEES.—(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Board shall establish a list of forensic science disciplines, which shall be—

(A) serve as the designated Federal officer; and

(B) designate a committee management officer for the Board.

SEC. 103. COMMITTEES.

(a) ESTABLISHMENT AND MAINTENANCE OF COMMITTEES.—(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Board shall establish a list of forensic science disciplines, which shall be—

(A) serve as the designated Federal officer; and

(B) designate a committee management officer for the Board.
the Board, may appoint a member to fill the remainder of the term.

(4) HOLDOVERS.—If a successor has not been appointed at the conclusion of the term of a member of the Committee, the member of the Committee may continue to serve until—

(A) a successor is appointed; or

(B) the member of the Committee is reappointed.

(d) TERMS.—A member of a Committee shall serve for renewable terms of 4 years.

(e) REPORT AND OVERSIGHT.—

(1) IN GENERAL.—The National Institute of Standards and Technology shall provide support and staff for each Committee as needed.

(f) DUTIES.—

(1) IN GENERAL.—A Committee shall have the duties and responsibilities set out in this Act, and shall perform any other functions determined appropriate by the Board and the Deputy Director.

(2) COMMITTEE DECISIONS AND RECOMMENDATIONS.—

(A) IN GENERAL.—A Committee shall submit recommendations and all recommended standards, protocols, or other materials developed by the Committee to the Board for evaluation.

(B) PROHIBITION OF MODIFICATION OF DECISIONS AND RECOMMENDATIONS.—Any recommendations of a Committee and any recommended standards, protocols, or other materials developed by a Committee may be approved or disapproved by the Board, but may not be modified by the Board.

(C) APPROVAL OF DECISIONS AND RECOMMENDATIONS.—If the Board approves a recommendation or recommended standard, protocol, or other material submitted by a Committee and a recommendation developed by a Committee, the member of the Committee related to the recommendation or the Committee shall serve without compensation for services performed for the Committee.

(D) TRAVEL EXPENSES.—The members of a Committee shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter 3 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 Committee.

SECTION 104. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated—

(1) $15,000,000 for each of fiscal years 2012 through 2016 for the operation and staffing of the Office;

(2) $5,000,000 for each of fiscal years 2012 through 2016 for the operation and staffing of the Board;

(3) $15,000,000 for each of fiscal years 2012 through 2016 for the operation and staffing of the Committees; and

(4) $5,000,000 for each of fiscal years 2012 through 2016 to the National Institute of Standards and Technology for the oversight, support, and staffing of the Committees.

SECTION 201. ACCREDITATION OF FORENSIC SCIENCE LABORATORIES

In General.—On and after the date established under subsection (b)(2)(D), a forensic science laboratory may not receive, directly or indirectly, any Federal funds, unless the Director has verified that the laboratory meets the standards and procedures established under this title.

(b) PROCEDURES FOR ACCREDITATION.—

(1) REQUIREMENTS.—Not later than 3 years after the date of enactment of this Act, the Board shall submit to the Director recommendations for the accreditation of forensic science laboratories that are consistent with the recommended standards and criteria developed by the Board under paragraph (2).

(2) DISAPPROVAL OF DECISIONS AND RECOMMENDATIONS.—If the Board disagrees with the decisions and recommendations of the Director, the Board may submit a revised recommendation or proposed standard, protocol, or other material to the Director.

II. ACCREDITATION OF FORENSIC SCIENCE LABORATORIES

SEC. 201. ACCREDITATION OF FORENSIC SCIENCE LABORATORIES.

(a) IN GENERAL.—On and after the date established under subsection (b)(2)(D), a forensic science laboratory may not receive, directly or indirectly, any Federal funds, unless the Director has verified that the laboratory meets the standards and procedures established under this title.

(b) PROCEDURES FOR ACCREDITATION.—

(1) REQUIREMENTS.—Not later than 3 years after the date of enactment of this Act, the Board shall submit to the Director recommendations for the accreditation of forensic science laboratories that are consistent with the recommended standards and criteria developed by the Board under paragraph (2).

(2) DISAPPROVAL OF DECISIONS AND RECOMMENDATIONS.—If the Board disagrees with the decisions and recommendations of the Director, the Board may submit a revised recommendation or proposed standard, protocol, or other material to the Director.

II. ACCREDITATION OF FORENSIC SCIENCE LABORATORIES

SEC. 201. ACCREDITATION OF FORENSIC SCIENCE LABORATORIES.

(a) IN GENERAL.—On and after the date established under subsection (b)(2)(D), a forensic science laboratory may not receive, directly or indirectly, any Federal funds, unless the Director has verified that the laboratory meets the standards and procedures established under this title.

(b) PROCEDURES FOR ACCREDITATION.—

(1) REQUIREMENTS.—Not later than 3 years after the date of enactment of this Act, the Board shall submit to the Director recommendations for the accreditation of forensic science laboratories that are consistent with the recommended standards and criteria developed by the Board under paragraph (2).

(2) DISAPPROVAL OF DECISIONS AND RECOMMENDATIONS.—If the Board disagrees with the decisions and recommendations of the Director, the Board may submit a revised recommendation or proposed standard, protocol, or other material to the Director.

II. ACCREDITATION OF FORENSIC SCIENCE LABORATORIES

SEC. 201. ACCREDITATION OF FORENSIC SCIENCE LABORATORIES.

(a) IN GENERAL.—On and after the date established under subsection (b)(2)(D), a forensic science laboratory may not receive, directly or indirectly, any Federal funds, unless the Director has verified that the laboratory meets the standards and procedures established under this title.

(b) PROCEDURES FOR ACCREDITATION.—

(1) REQUIREMENTS.—Not later than 3 years after the date of enactment of this Act, the Board shall submit to the Director recommendations for the accreditation of forensic science laboratories that are consistent with the recommended standards and criteria developed by the Board under paragraph (2).

(2) DISAPPROVAL OF DECISIONS AND RECOMMENDATIONS.—If the Board disagrees with the decisions and recommendations of the Director, the Board may submit a revised recommendation or proposed standard, protocol, or other material to the Director.
(2) the forensic science laboratories that have been determined to be ineligible to receive Federal funds under section 201(a); and

(3) the forensic science laboratories that are accredited by a qualified accrediting entity; and

(iii) training and education programs.

(b) REVIEW OF STANDARDS.—

(1) IN GENERAL.—Not less frequently than once every 5 years—

(A) the Board shall—

(i) review the soundness and effectiveness of the accreditation standards established under subsection (a); and

(ii) submit recommendations to the Director relating to the need to update the standards as necessary to—

(I) account for developments in relevant scientific research and technological advances;

(II) ensure adherence to the standards and best practices established under title V; and

(III) address any other issue identified during the course of the review conducted under clause (i); and

(B) the Director shall, as necessary and in accordance with section 101(c)(4), update the accreditation standards established under subsection (a).

(2) PROCEDURES FOR OPEN AND TRANSPARENT REVIEW OF STANDARDS.—The Director, in consultation with the Board, shall establish procedures to ensure that the process for developing, reviewing, and updating accreditation standards under this section—

(A) is open and transparent to the public; and

(B) includes an opportunity for the public to comment on proposed standards with sufficient notice.

SEC. 203. ADMINISTRATION AND ENFORCEMENT OF ACCREDITATION PROGRAM.

(a) ADMINISTRATION AND ENFORCEMENT OF ACCREDITATION PROGRAM.—

(1) IN GENERAL.—The Director shall determine whether a forensic science laboratory is eligible to receive, directly or indirectly, Federal funds under section 201(a).

(2) ADMINISTRATION.—

(A) IN GENERAL.—The Director may identify 1 or more qualified accrediting entities with expertise and experience relevant to the accreditation of forensic science laboratories, the accreditation of a forensic science laboratory by which shall constitute accreditation for relevant personnel.

(B) OVERSIGHT.—The Director shall periodically reevaluate whether accreditation by a qualified accrediting entity identified under subparagraph (A) is adequate to ensure compliance with the standards and procedures established under this title.

(c) REPORTING.—The Director shall provide regular reports to the Board regarding the accreditation of forensic science laboratories by qualified accrediting entities identified under paragraph (a) and reevaluations of accredited entities identified under subparagraph (b), which shall be published on the website of the Office.

(b) REVIEW OF ELIGIBILITY.—Not less frequently than once every 5 years, the Director shall evaluate whether a forensic science laboratory that has been determined to be eligible to receive Federal funds under section 201(a) remains eligible to receive Federal funds, including whether any accreditation of the forensic science laboratory by a qualified accrediting entity identified under subparagraph (a) is still in effect.

(c) WEBSITE.—The Director shall develop and maintain on the website of the Office an updated list of—

(I) forensic science laboratories that are eligible for Federal funds under section 201(a); and

(ii) the forensic science laboratories that have been determined to be ineligible to receive Federal funds under section 201(a); and

(iii) the forensic science laboratories that are accredited by a qualified accrediting entity; and

(iv) the forensic science laboratories that are identified by the relevant agency as not meeting the standards established under this title; and

(b) REVIEW OF STANDARDS.—

(1) IN GENERAL.—Not less frequently than once every 5 years, a Committee shall—

(A) review the standards for certification established under subsection (c) for each forensic science discipline within the responsibility of the Committee; and

(B) submit to the Board recommendations regarding updates, if any, to the standards for certification as necessary to—

(i) account for developments in relevant scientific research, technological advances, or changes in the law; and

(ii) to ensure adherence to the uniform standards and best practices established under title V.

(b) ADMINISTRATION.—

(1) IN GENERAL.—Not later than 180 days after the date on which a Committee submits recommendations under paragraph (1)(B), the Board shall, in accordance with section 101(c)(4), establish standards for the certification of relevant personnel.

(c) CERTIFICATION OF FORENSIC SCIENCE PERSONNEL.

(1) EXCEPT AS PROVIDED IN SECTION 304(c)(2), ON AND AFTER THE DATE ESTABLISHED UNDER SECTION 304(c)(1), A FORENSIC SCIENCE LABORATORY OR COVERED ENTITY MAY NOT RECEIVE, DIRECTLY OR INDIRECTLY, ANY FEDERAL FUNDS, UNLESS ALL RELEVANT PERSONNEL OF THE FORENSIC SCIENCE LABORATORY OR COVERED ENTITY ARE CERTIFIED UNDER THIS TITLE.

(d) STANDARDS FOR CERTIFICATION.

(1) IN GENERAL.—Not later than 2 years after the date on which all members of a Committee have been appointed, the Committee shall make recommendations to the Board relating to standards for the certification of relevant personnel to perform forensic science discipline address addressed by the Committee.

(2) REQUIREMENTS.—In developing recommended standards under paragraph (1), a Committee shall—

(A) consult with qualified professional organizations;

(B) consider relevant certification standards and best practices developed by qualified professional or scientific organizations;

(C) consider any standards or best practices established under title V; and

(D) consider—

(i) whether certain minimum standards should be established for the education and training of relevant personnel; and

(ii) whether there should be an alternative process to enable relevant personnel who were hired before the date established under section 304(c)(1), to obtain certifications, including—

(I) testing that demonstrates proficiency in a specific forensic science discipline that is more rigorous than the level of proficiency required by the standards for certification; and

(II) a waiver of certain educational and training requirements.

(e) PUBLIC COMMENT.—The Director, in consultation with the Board, shall establish procedures to ensure that the process for establishing, reviewing, and updating standards for certification of relevant personnel under this section—

(1) is open and transparent to the public; and

(2) includes an opportunity for the public to comment on proposed standards with sufficient prior notice.

SEC. 304. ADMINISTRATION AND REVIEW OF CERTIFICATION PROGRAM.

(a) ADMINISTRATION.—

(1) IN GENERAL.—The Director shall determine whether a forensic science laboratory or covered entity is eligible to receive, directly or indirectly, Federal funds under section 302.

(2) PROCEDURES.—Not later than 1 year after the date of enactment of this Act, the Director shall establish policies and procedures to implement standards for the certification of relevant personnel.

(b) ADMINISTRATION.—

(1) IN GENERAL.—After consultation with the Board, the Director may identify 1 or more qualified professional organizations with experience and expertise relevant to the certification of individuals in a particular forensic science discipline, the certification of an individual by which shall constitute certification for purposes of this Act.

(2) OVERSIGHT.—The Director shall periodically reevaluate whether certification by a
qualified professional organizations identified under paragraph (1) is adequate to ensure compliance with the standards established under this title.

(b) REQUIREMENT.—The Director shall provide regular reports to the Board regarding the certification of relevant personnel by qualified professional organizations identified under paragraph (2), which shall be published on the website of the Office.

(c) IMPLEMENTATION OF CERTIFICATION REQUIREMENTS.—

(1) IN GENERAL.—After consultation with the Board, the Director shall establish the date on which forensic science laboratories and covered entities shall be in compliance with the certification requirements of this title.

(2) GRADUAL IMPLEMENTATION.—The Director shall, in consultation with the Board and each Committee, establish policies and procedures to enable the gradual implementation of the certification requirements that:

(A) include a reasonable schedule to allow relevant personnel to obtain certifications; and

(B) allow for partial compliance with the requirements of section 302 for a reasonable period of time after the date established under paragraph (1).

(d) REVIEW OF CERTIFICATION REQUIREMENTS.—The Director shall establish policies and procedures for the periodic review of the implementation, administration, and enforcement of the certification requirements established under this title.

SEC. 303. GRANTS AND TECHNICAL ASSISTANCE.

(a) IN GENERAL.—The Director of the National Institute of Justice, in consultation with the Director, may make grants and provide technical assistance to forensic science laboratories and other entities subject to the requirements under this title and title II to ensure that forensic science laboratories and covered entities are able to effectively fulfill the responsibilities of the laboratories or entities during the process of:

(1) attaining accreditation under title II; and

(2) obtaining certifications for relevant personnel under this title.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated $10,000,000 for each of fiscal years 2012 through 2016 to the National Institute of Justice for the grant program and technical assistance described in subsection (a).

(2) REQUIREMENT.—Not less than 75 percent of funds appropriated pursuant to paragraph (1) shall be used for grants under this section.

(c) REPORT.—The Director of the National Institute of Justice shall, on an annual basis, submit to the Board and the Director a report that describes—

(1) the application process for grants under this section;

(2) each grant made under this section during the fiscal year before the fiscal year in which the report is submitted; and

(3) the status and results of any grants previously described in a report submitted under this subsection.

TITLE IV—RESEARCH

SEC. 401. RESEARCH STRATEGY AND PRIORITIES.

(a) COMPREHENSIVE RESEARCH STRATEGY AND AGENDA.—

(1) RECOMMENDATION.—Not later than 18 months after the date of enactment of this Act, the Director shall recommend to the Director a comprehensive strategy for fostering and improving peer-reviewed scientific research relating to the forensic science disciplines, including research addressing issues of accuracy, reliability, and validity in the forensic science disciplines.

(2) ESTABLISHMENT.—After the Director receives recommendations from the Board under paragraph (1), the Director shall, in accordance with section 101(e)(4), establish a comprehensive strategy for fostering and improving peer-reviewed scientific research relating to the forensic science disciplines.

(3) REVIEW.—

(A) BOARD REVIEW.—Not less frequently than once every 5 years, the Board shall—

(i) review the comprehensive strategy established under paragraph (2); and

(ii) recommend any necessary updates to the comprehensive strategy.

(B) DIRECTOR REVIEW.—After the Director receives recommendations from the Board under subparagraph (A), the Director shall, in accordance with section 101(e)(4), adopt the comprehensive strategy as necessary and appropriate.

(b) RESEARCH FUNDING PRIORITIES.—

(1) RECOMMENDATION.—Not later than 18 months after the date of enactment of this Act, the Board shall recommend to the Director a list of priorities for forensic science research funding.

(2) ESTABLISHMENT.—After the Director receives recommendations from the Board under paragraph (1), the Director shall, in accordance with section 101(e)(4), establish a list of priorities for forensic science research funding.

(3) REVIEW.—Not less frequently than once every 2 years, the Board shall—

(A) review—

(i) the list of priorities established under paragraph (2); and

(ii) the findings of the relevant Committees made under subsection (c); and

(B) recommend any necessary updates to the list of priorities, incorporating, as appropriate, the findings of the Committees under subsection (c).

(4) UPDATES.—After the Director receives recommendations under paragraph (1), the Director shall, in accordance with section 101(e)(4), update as necessary the list of research funding priorities.

(c) EVALUATION OF RESEARCH NEEDS.—Not later than 2 years after the date on which all members of a Committee have been appointed under section 103, and periodically thereafter, the Committee shall:

(1) examine and make the scientific research in each forensic science discipline within the responsibility of the Committee;

(2) conduct comprehensive surveys of scientific research in each forensic science discipline within the responsibility of the Committee;

(3) examine the research needs in each forensic science discipline within the responsibility of the Committee and identify key areas in which further scientific research is needed; and

(4) develop and submit to the Board a list of research needs and priorities.

(d) CONSIDERATION.—In developing the initial research strategy, research priorities, and surveys required under this section, the Board and the Director shall consider any findings, surveys, and analyses relating to research in forensic science disciplines, including those made by the Subcommittee on Forensic Science of the National Science Foundation.

SEC. 402. RESEARCH GRANTS.

(a) COMPETITIVE GRANTS.—

(1) DEFINITION.—In this subsection, the term ‘eligible entity’ means—

(A) a nonprofit academic or research institution; and

(B) any other entity designated by the Director of the National Institute of Standards and Technology.

(2) PREFERENCES FOR RESEARCH GRANTS.—

(A) IN GENERAL.—The Director of the National Institute of Standards and Technology may, on a competitive basis, make grants to eligible entities and organizations conducting peer-reviewed scientific research to develop new technologies and processes to improve the efficiency, effectiveness, and reliability of forensic science testing procedures.

(B) COORDINATION WITH DIRECTOR.—In making grants under this subsection, the Director of the National Institute of Standards and Technology shall—

(A) coordinate with the Director; and

(B) consider the plan established under section 404.

(c) DEVELOPMENT OF NEW TECHNOLOGIES.—The Director of the National Institute of Standards and Technology shall, on a competitive basis, make grants to eligible entities and organizations conducting peer-reviewed scientific research to develop new technologies and processes to improve the efficiency, effectiveness, and reliability of forensic science testing procedures.

(d) CONSIDERATION.—In making grants under this subsection, the Director of the National Institute of Standards and Technology shall—

(A) coordinate with the Director; and

(B) consider the plan established under section 404.

(e) COORDINATION WITH THE NATIONAL SCIENCE FOUNDATION.—The Director of the National Institute of Standards and Technology shall consult and coordinate with the National Science Foundation to ensure—

(A) the integrity of the process for reviewing proposals and awarding grants under this subsection; and

(B) that the grant-making process is not subject to any undue bias or influence.

(f) REPORT.—

(A) IN GENERAL.—

(i) SUBMISSION.—The Director of the National Institute of Standards and Technology shall, on an annual basis, submit to the Board and the Director a report that describes—

(1) the application process for grants under this section; and

(2) each grant made under this section in the fiscal year before the report is submitted; and

(ii) as appropriate, the status and results of grants previously described in a report submitted under this subsection.

(B) PUBLICATION.—The Director shall publish the report submitted under subparagraph (A) on the website of the Office.

(2) EVALUATION.—The Board and the Director shall evaluate each report submitted under paragraph (1) and consider information provided in each report in reviewing the research strategy and priorities established under section 401.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated:

(1) $75,000,000 to the National Institute of Standards and Technology for each of fiscal years 2012 through 2016 for grants under section (a)(1); and

(2) $15,000,000 to the National Institute of Standards and Technology for each of fiscal years 2012 through 2016 for grants under subsection (a)(2).
(b) REQUIREMENTS.—Each report submitted under this section shall evaluate—

(1) whether any undue biases or influences affected the integrity of the solicitation, award, or administration of research grants; and

(2) whether there was any unnecessary duplication, waste, fraud, or abuse in the grants program.

SEC. 404. PUBLIC-PRIVATE COLLABORATION.

(a) RECOMMENDATION.—Not later than 2 years after the date of enactment of this Act, the Committee shall submit to the Director a recommended plan for encouraging collaboration among universities, nonprofit research institutions, State and local forensic science laboratories, private corporations, and the Federal Government to develop and perform cost-effective and reliable research in the forensic sciences, consistent with the research priorities established under section 401(b)(2).

(b) REQUIREMENTS.—The plan recommended under subsection (a) shall include—

(1) incentives for nongovernmental entities to invest significant resources into conducting necessary research in the forensic sciences;

(2) procedures for ensuring the research described in paragraph (1) will be conducted with sufficient scientific rigor that the research can be relied upon by—

(A) the Committees in developing standards under this Act; and

(B) forensic science personnel; and

(3) clearly defined requirements for disclosure of the sources of funding by nongovernmental entities for forensic science research conducted in collaboration with governmental entities and safeguards to prevent conflicts of interest or undue bias or influence.

(c) ESTABLISHMENT AND IMPLEMENTATION.—After receiving the recommended plan of the Board under subsection (a), the Director shall establish, in accordance with section 101(e)(4), and implement—

(1) standard protocols;

(2) quality assurance standards; and

(3) a standardized curriculum for education and training described in subparagraph (A).

(d) OVERSIGHT.—The Director, in consultation with the Board, shall periodically evaluate and, as necessary, update the plan established under paragraph (2).

SEC. 501. DEVELOPMENT OF STANDARDS AND BEST PRACTICES.

(a) COMMITTEE RECOMMENDATIONS.—

(1) IN GENERAL.—Not later than 2 years after the date on which all members of a Committee have been appointed under section 403(b), the Committee shall develop and recommend to the Board uniform standards and best practices for forensic science discipline addressed by the Committee, including—

(A) standard protocols;

(B) quality assurance standards; and

(C) a standardized curriculum for education and training.

(b) REQUIREMENTS.—In developing the uniform standards and best practices that are designed to ensure the quality and scientific integrity of data, results, conclusions, analyses, and reports that are generated for use in the criminal justice system,

(1) consider the recommendations; and

(2) submit to the Director recommendations for uniform standards and best practices.

SEC. 502. ESTABLISHMENT AND DISSEMINATION OF STANDARDS AND BEST PRACTICES.

(a) IN GENERAL.—After the Board submits uniform standards or best practices for a forensic science discipline under section 501(b), the Director shall, in accordance with section 101(e)(4), establish and disseminate uniform standards and best practices for the forensic science discipline.

(b) PUBLICATION.—The Director shall publish the uniform standards and best practices established under subsection (a) on the website of the Board.

SEC. 503. REVIEW AND OVERSIGHT.

(a) REVIEW BY COMMITTEES.—

(1) IN GENERAL.—Not less frequently than every 3 years, each Committee shall review and, as necessary, recommend to the Board updates to the uniform standards and best practices established under section 502 for each forensic science discipline within the responsibility of the Committee.

(2) CONSIDERATIONS.—In reviewing, and developing recommended updates to, the uniform standards and best practices under paragraph (1), the Committee shall consider—

(A) input from qualified professional organizations;

(B) research published after the date on which the uniform standards and best practices were established, including research conducted under title IV; and

(C) any changes to relevant law made after the date on which the uniform standards and best practices were established.

(b) BOARD RECOMMENDATIONS.—Not later than 180 days after the date on which a Committee submits recommended updates to the uniform standards and best practices under subsection (a), the Board shall, in accordance with section 101(e)(4), establish and disseminate the uniform standards and best practices for the forensic science discipline.

(c) U PDATES.—After the Director receives recommendations, if any, under subsection (b), the Director shall, in accordance with section 101(e)(4), update and disseminate the uniform standards and best practices for each forensic science discipline as necessary.

(d) PROCEDURES.—The Director, in consultation with the Board, shall establish procedures to ensure that the process for developing, reviewing, and updating the uniform standards and best practices—

(1) includes open and transparent public participation; and

(2) includes an opportunity for the public to comment on proposed standards with sufficient prior notice.

TITLE VI—ADDITIONAL RESPONSIBILITIES OF THE OFFICE OF FORENSIC SCIENCES AND THE FORENSIC SCIENCE BOARD

SEC. 601. FORENSIC SCIENCE TRAINING AND EDUCATION FOR JUDGES, ATTORNEYS, AND LAW ENFORCEMENT PERSONNEL.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Board shall submit to the Director a recommended plan for—

(1) recommending to the education and training of judges, attorneys, and law enforcement personnel in the forensic sciences and fundamental scientific principles, which shall include education on the competent use and evaluation of forensic science evidence; and

(2) developing a standardized curriculum for education and training described in subparagraph (A).

(b) ESTABLISHMENT.—Upon receipt of the recommendation from the Board under paragraph (1), the Director shall establish, in accordance with section 101(e)(4), and implement a plan for—

(A) supporting the education and training of judges, attorneys, and law enforcement personnel in the forensic sciences and fundamental scientific principles, which shall include education on the competent use and evaluation of forensic science evidence; and

(B) developing a standardized curriculum for education and training described in subparagraph (A).

(c) OVERSIGHT.—The Director, in consultation with the Board, shall periodically evaluate and, as necessary, update the plan established under paragraph (2).

SEC. 602. EDUCATIONAL PROGRAMS IN THE FORENSIC SCIENCES.

(a) REQUIREMENTS.—Not later than 2 years after the date of enactment of this Act, the Board shall submit to the Director a recommended plan for—

(1) developing educational programs in the forensic sciences and related fields; and

(2) developing educational programs in the forensic sciences and related fields that may be used during a criminal investigation or criminal court proceeding.

(b) REQUIREMENTS.—In developing the uniform standards and best practices under paragraph (1), a Committee shall—

(1) as appropriate, consult with qualified professors, attorneys, judges, and law enforcement personnel; and

(2) develop uniform standards and best practices that are designed to ensure the
(1) a plan for supporting the development of undergraduate and graduate educational programs in the forensic science disciplines and related fields; and
(2) appropriate standards and regulations for education programs in the forensic science disciplines and related fields determined by the Director to be appropriate.
(c) PLAN FOR FORENSIC LABORATORY.—In consultation with the Board, the Director shall—
(1) oversee the implementation of any standards or requirements established under subsection (b); and
(2) periodically update and, as necessary, update the plan, standards, or requirements established under subsection (b).

SEC. 604. INTER-GOVERNMENTAL COORDINATION.

The Board and the Director shall regularly—
(1) coordinate with relevant Federal agencies, including the National Science Foundation, the Department of Defense, and the National Institutes of Health, as appropriate, to make efficient and appropriate use of research expertise and funding; and
(2) coordinate with the Department of Homeland Security and other relevant Federal agencies in ways in which the forensic science disciplines may assist in homeland security and emergency preparedness.

SEC. 605. ANONYMOUS REPORTING.

Not later than 3 years after the date of enactment of this Act, the Director shall submit to the Director a recommended plan to require interoperability among databases and technologies in each of the forensic science disciplines among all levels of Government, in all States, and with the private sector.

(b) ESTABLISHMENT AND IMPLEMENTATION.—Upon receipt of the recommendation from the Board under subsection (a), the Director shall—
(1) in accordance with section 101(e)(4), implement a plan to encourage interoperability among databases and technologies in each of the forensic science disciplines among all levels of Government, in all States, and with the private sector.

(c) OVERSIGHT.—In consultation with the Board, the Director shall evaluate and, as necessary, update the plan established under subsection (b).

SEC. 607. CODE OF ETHICS.

(a) RECOMMENDATIONS.—
(1) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Board shall submit to the Director a recommended code of ethics for the forensic science disciplines.

(2) REQUIREMENTS.—In developing a recommended code of ethics under paragraph (1), the Board shall—
(A) consult with relevant qualified professional organizations; and
(B) consider the recommendations relating to a code of ethics for the forensic science disciplines;
(2) as appropriate, incorporate the code of ethics into the standards for accreditation of forensic science laboratories and certification of relevant personnel established under this Act.

(c) OVERSIGHT.—The Director, in consultation with the Board, shall—
(1) oversee the implementation of any standards or requirements established under subsection (b); and
(2) periodically evaluate and, as necessary, update the plan, standards, and regulations established under subsection (b).

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

S. 134

A Bill to provide for the authorization of the Mescalero Apache Tribe to lease adjudicated water rights; to the Committee on Indian Affairs.

Mr. BINGAMAN. Mr. President, today I am introducing a bill entitled the Mescalero Apache Tribe Leasing Authorization Act to allow the Mescalero Apache Tribe in New Mexico to lease certain adjudicated water rights to other communities in need of water. My colleague Senator Tom Udall is co-sponsoring this measure and I am looking forward to working with him on this issue.

As competition for limited water supplies increases and water supplies become more uncertain as a result of a changing climate, more flexibility in water management strategies is essential. This bill will enable the Mescalero Apache Tribe to lease certain unused water rights adjudicated to the Tribe to other communities in New Mexico that have significant water needs. Through this bill, communities including the Village of Ruidoso, the Village of Cloudcroft and the City of Alamogordo would be able to negotiate with the Mescalero Apache Tribe to lease water through a process overseen by the New Mexico State Engineer. These mutually beneficial transactions will provide additional water to communities in times of need and will provide economic benefits to the Tribe. Allowing these types of transactions to occur will also help to strengthen the relationship between Indian and non-Indian communities that co-exist in many parts of New Mexico.

This bill will greatly benefit the Mescalero Apache Tribe and its surrounding neighbors and it is my hope that my colleagues will ultimately support its enactment.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

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

SECTION 1. SHORT TITLE.

In this Act:

(A) ADJUDICATED WATER RIGHTS.—The term “adjudicated water rights” means water rights that were adjudicated to the Tribe in State v. Lewis, 116 N.M. 194, 861 P. 2d 235 (1993).

(b) ESTABLISHMENT AND INCORPORATION.—Upon receipt of the recommendation from the Board under subsection (a), the Director shall—
(1) in accordance with section 101(e)(4), establish a code of ethics for the forensic science disciplines; and
(2) as appropriate, incorporate the code of ethics into the standards for accreditation of forensic science laboratories and certification of relevant personnel established under this Act.

(c) OVERSIGHT.—The Director, in consultation with the Board, shall—
(1) oversee the implementation of any standards or requirements established under subsection (b); and
(2) periodically evaluate and, as necessary, update the plan, standards, and regulations established under subsection (b).

SEC. 2. DEFINITIONS.

In this Act:

(A) ADJUDICATED WATER RIGHTS.—The term “adjudicated water rights” means water rights that were adjudicated to the Tribe in State v. Lewis, 116 N.M. 194, 861 P. 2d 235 (1993).

(b) ESTABLISHMENT AND INCORPORATION.—Upon receipt of the recommendation from the Board under subsection (a), the Director shall—
(1) in accordance with section 101(e)(4), establish a code of ethics for the forensic science disciplines; and
(2) as appropriate, incorporate the code of ethics into the standards for accreditation of forensic science laboratories and certification of relevant personnel established under this Act.

(c) OVERSIGHT.—The Director, in consultation with the Board, shall—
(1) oversee the implementation of any standards or requirements established under subsection (b); and
(2) periodically evaluate and, as necessary, update the plan, standards, and regulations established under subsection (b).

SEC. 3. AUTHORIZATION TO LEASE ADJUDICATED WATER RIGHTS.

(a) IN GENERAL.—Notwithstanding any other provision of law, subject to subsections (b) and (c), the Tribe may lease, enter into a contract with respect to, or otherwise transfer to another party, for another purpose, or to another place of use in the State, all or any portion of the adjudicated water rights.

(b) STATE LAW.—In carrying out any action under subsection (a), the Tribe shall comply with all laws (including regulations) of the State with respect to the leasing or transfer of water rights.

(c) ALIENATION: MAXIMUM TERM.—

(1) ALIENATION.—The Tribe shall not permanently alienate any adjudicated water rights.

(2) MAXIMUM TERM.—The term of any water use lease, contract, or other agreement under this section (including a renewal of such an agreement) shall be not more than 99 years.

(d) LIABILITY.—The Secretary shall not be liable to the Tribe or any other person for any loss or other detriment resulting from a lease, contract, or other arrangement entered into pursuant to this section.

(e) PURCHASES OR GRANTS OF LAND FROM INDIANS.—The authorization provided by this Act for the leasing, contracting, and transfer of water rights shall be considered to satisfy any requirement for authorization of the action by treaty or convention imposed by section 216 of the Revised Statutes (25 U.S.C. 175).

(f) PROHIBITION ON FORFEITURE.—The non-use of all or any portion of the adjudicated water rights by a lessee or contractor shall not result in the forfeiture, abandonment, relinquishment, or other loss of all or any portion of the adjudicated water rights.
By Mr. REID (for Mrs. FEINSTEIN (for herself, Mr. SCHUMER, Mr. KERRY, Mr. SANDERS, and Mr. FRANKEN)):

S. 136. A bill to establish requirements with respect to bisphenol A; to the Committee on Health, Education, Labor, and Pensions.

Mrs. FEINSTEIN. Mr. President, today I am introducing the “Ban Poisonous Additives Act of 2011,” a bill that would ban the chemical Bisphenol A, known as BPA, from all children’s feeding products. I thank my cosponsors Senators SCHUMER, KERRY, SANDERS, and FRANKEN for their support.

I voted in the last Congress not to give up, and this is why I am introducing a bill that bans the use of BPA in baby bottles, sippy cups, infant formula, and baby food containers: the products used to provide food and beverages to the most vulnerable.

I have a deep, abiding concern regarding the presence of toxins and chemicals in the thoroughly lives of Americans. BPA is an endocrine disruptor, which means that it interferes with the way hormones work in the body.

The evidence against BPA is mounting, especially its harmful effects on babies and children who are still developing.

I believe we have an obligation to safeguard babies and children from unnecessary exposure to this chemical that is linked to so many health problems.

Over 200 scientific studies show that even at low doses, BPA is linked to serious health problems including: Cancer, Diabetes, Heart Disease, Early puberty, Behavioral problems, Obesity.

This chemical is so widespread it has been found in 93 percent of Americans.

Babies and children are particularly at risk to the exposure of BPA because when they are developing, any small change can cause dramatic consequences.

It may not surprise you that the chemical industry continues to insist that BPA is not harmful. According to at least one study, there is reason to be skeptical about research coming from chemical companies.

In 2006, the journal Environmental Research published an article comparing the results of government funded studies on BPA to BPA studies funded by industry.

The difference is glaring.

Ninety-two percent of the government funded studies found that exposure to BPA caused health problems.

Overwhelmingly, government studies found harm. None of the industry funded studies identified health problems as a result of BPA exposure. Not one.

Clearly, serious questions are raised about the validity of the chemical industry’s studies. The results also illustrate why our nation’s regulatory agencies should not and cannot rely on chemical companies to conduct research on their own products.

The fact that so many adverse health effects are linked to this chemical, the fact that this chemical is so present in our bodies, and the fact that babies are more at risk from its harmful effects leads me to believe that there is no good reason to expose our children to BPA.

This is why we are introducing legislation that protects all babies across the country, no matter which state they happen to live.

This bill will ensure that parents no longer have to wonder whether products they buy for their babies and children will harm them now or later in life.

This bill: Bans the use of BPA in baby bottles and sippy cups within 6 months; Bans the use of BPA in baby food within 1 year; Bans the use of BPA in infant formula within 18 months; Requires that the FDA issue a revised safety assessment on BPA by December 1, 2012; and Includes a savings clause to allow states to enact their own legislation.

This bill makes sense. It’s a reasonable step forward to protecting our children’s health.

Major manufacturers are already phasing out BPA from their food and beverage products for children.

Food and beverage products for children all have safe, alternative, BPA-free packaging available right now.

Major baby food and formula manufacturers offer BPA-free alternatives including: Nestle’s GOOD START, Similac powdered infant formula, Enfamil powdered infant formula, Nestle liquid formula, and Similac liquid formula.

At least 14 manufacturers of baby bottles either offer some BPA-free alternatives or have completely banned its use. They are: Avent, Born Free, Disney First Years, Dr. Brown’s, Evenflo, Gerber, Green to Grow, Klean Kanteen, Medala, Munchkin, Nuby Sippy Cups, Playtex, Think Baby, and Weel Baby.

Many major retailers have taken action and sell BPA-free baby bottles and sippy cups: CVS, Kroger, Rite Aid, Safeway, Sears, Toys “R” Us and Babies “R” Us, Wal-Mart, Wegmans, and Whole Foods.

Eight states have already enacted laws banning BPA from children’s products: Connecticut, Maryland, Massachusetts, Minnesota, New York, Vermont, Washington, and Wisconsin.

Other countries have already moved forward to restrict this chemical. Canada declared BPA a toxic substance, and banned it from all baby bottles and sippy cups. Denmark and France have national bans on BPA in certain children’s products.

The European Commission banned BPA from baby bottles, protecting consumers in the European Union.

Clearly, the problem has been recognized and steps are being taken by countries, states, companies, and retailers to remove this harmful chemical.

Let me briefly explain what BPA is. BPA is a synthetic estrogen. As I stated previously, it is a hormone disrupter and interferes with how hormones work in the body. This chemical is used in thousands of consumer products to harden plastics, line tin cans, and make CDs. It is even used to coat airline tickets, grocery store receipts, and to make dental sealants.

It is one of the most pervasive chemicals in modern life. And, as with so many other chemicals in consumer products, BPA has been added to our products without us knowing whether it was safe or not.

Alternatives exist because there is growing concern about the harmful effects of BPA. The chemical industry continues to try to quiet criticism by reassuring consumers that BPA is safe. I don’t buy it.

As I previously stated, over 200 scientific studies show that exposure to BPA, particularly during prenatal development and early infancy, are linked to a wide range of adverse health effects in later life.

Because of their smaller size and stage of development, babies and children are particularly at risk from the harmful health effects of BPA. Serious serious effects include: increased risk of breast and prostate cancer; genital abnormalities in males; infertility in men; sexual dysfunction; early puberty in girls; metabolic disorders such as insulin resistant Type 2 diabetes; and obesity; and behavioral problems such as attention deficit hyperactivity disorder, ADHD.

It continues to astound me how, even with this extensive list of potentially serious health effects, we continue to allow this chemical to be put in our products.

Moreover, additional science continues to be released, confirming the potential for BPA to cause severe problems.

Recently, the University of California, San Francisco published a small scale study finding that human exposure to BPA may compromise the quality of a woman’s eggs retrieved for in vitro fertilization, IVF.

A study of over 200 Chinese factory workers found evidence that high levels of BPA exposure to adversely affect sperm quality in humans.

Researchers at the University of Nebraska Medical Center recently published a study concluding that BPA has biochemical properties similar to human carcinogens.

I want to underscore the importance and the urgency of withdrawing BPA from these children’s products.

Well-known and respected organizations and Federal agencies also have expressed concern about BPA.

The President’s Cancer Panel Annual Report released in April 2010 concluded that there is growing evidence of a link between BPA and several diseases, such as cancer.

The Panel recommended using BPA-free containers to limit chemical exposure.

A 2008 study by the American Medical Association suggested links between exposure to BPA and diabetes,
heart disease and liver problems in humans. The National Health and Nutrition Examination Survey (NHANES) linked BPA in high concentrations to cardiovascular disease. A study of Type 2 diabetes and BPA.

Given these conclusions, it is critical that we act now to protect the most vulnerable, our infants and toddlers from this chemical. Children receive no benefit by having a baby bottle or cup coated with BPA. In the last Congress, I vowed not to give up in my fight to ban BPA. After working hard for many months to reach an agreement with Senator Enzi on a more limited ban, I was sincerely disappointed that this agreement was blocked by the chemical industry from being included in the food safety bill. I want to reiterate the importance of this legislation. I strongly believe we need to take action on this.

I don’t think we can take a chance with our children’s health. BPA has been linked to developmental disorders, cancer, cardiovascular complications, and diabetes by credible scientific bodies. The evidence that BPA is unacceptable danger is mounting. Yet it remains in thousands of household and food products. This is a reasonable, common sense bill.

Now, the time comes again for this body to take a stand and move forward to protect the health of America’s children. I urge my colleagues to join me in supporting my legislation, the Ban Poisonous Additives Act of 2011. I look forward to working with my colleagues on this important issue.

Mr. President, I seek unanimous consent that the text of the bill be printed in the RECORD. There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

SEC. 2. REQUIREMENTS WITH RESPECT TO BISPHENOL A.

(a) BAN ON USE OF BISPHENOL A IN FOOD AND BEVERAGE CONTAINERS FOR CHILDREN.

(1) BABY FOOD; UNFILLED BABY BOTTLES AND CUPS.—Section 402(j)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342(j)) is amended by adding at the end the following:

“(1) If it is a food intended for children 3 years of age or younger, the container of which (including the lining of such container) is composed, in whole or in part, of bisphenol A.

(2) If it is a baby bottle or cup that is composed, in whole or in part, of bisphenol A.”

(b) DEFINITION.—Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) is amended by adding at the end the following:

“(rr) BABY BOTTLE OR CUP.—For purposes of this section, the term ‘baby bottle’ or ‘cup’ means a bottle or cup that—

(1) is intended to aid in the feeding or providing of drink to children 3 years of age or younger; and

(2) does not contain a food when such bottle or cup is sold or distributed at retail.”

(c) REGULATION OF OTHER CONTAINERS Composed of Bisphenol A.

(1) SAFETY STANDARD.—The Secretary shall use the safety standard described under paragraph (1), and taking into consideration the requirements of section 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 349a), and section 170.3(i) of title 21, Code of Federal Regulations, the Secretary shall determine whether there is a reasonable certainty that no harm will result, in part, of aggregate exposure to bisphenol A through food containers or other items composed, in whole or in part, of bisphenol A, taking into consideration different types of such food containers and the use of such food containers with respect to different foods, as appropriate.

(2) SAFETY STANDARD.—Through the safety assessment described in paragraph (1), and taking into consideration the requirements of section 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 349a), and section 170.3(i) of title 21, Code of Federal Regulations, the Secretary shall determine whether there is a reasonable certainty that no harm will result, in part, of aggregate exposure to bisphenol A through food containers or other items composed, in whole or in part, of bisphenol A, taking into consideration different types of such food containers and the use of such food containers with respect to different foods, as appropriate.

(3) APPLICATION OF SAFETY STANDARD TO ALTERNATIVES.—The Secretary shall use the safety standard described under paragraph (2) to evaluate the proposed uses of alternatives to bisphenol A.

(d) SAVINGS PROVISION.—Nothing in this section shall affect the right of a State, political subdivision of a State, or Indian Tribe to adopt or enforce any regulation, requirement, liability, or standard of performance that is more stringent or of a different nature than a regulation, requirement, liability, or standard of performance under this section or that—

(1) applies to a product category not described in this section; or

(2) requires the provision of a warning of risk, illness, or injury associated with the use of food containers composed, in whole or in part, of bisphenol A.

(e) DEFINITION.—For purposes of this section, the term ‘container’ includes the lining of a container.

By Mr. REID (for Mrs. FEINSTEIN (for herself, Mr. NOYEE, Mrs. BOXER, Mr. SANDERS, Mrs. WHITEHOUSE, Mr. CASEY, and Mr. LAUTENBERG)):

S. 137. A bill to amend the Public Health Service Act to provide protections for consumers against excessive, unjustified, or unfairly discriminatory increases in premium rates; to the Committee on Health, Education, Labor, and Pensions.

Mrs. FEINSTEIN. Mr. President, in passing the Patient Protection and Affordable Care Act, PPACA, on March 23, 2010, the 111th Congress made great strides towards protecting consumers from egregious health insurance company practices. However, despite the passage of this historic legislation, the urgent need to protect Americans from unfair health insurance rate increases remains.

Health insurance premiums have been spiraling upwards nationally at out-of-control rates—10, 20, 30 percent every year—all while big national insurance companies enjoy increasing profits.

Without further legislative action, health insurance companies will continue to do what they have done for far too long: put their profits ahead of people.

Over the past decade, family health insurance premium increases have more than doubled, growing a shocking 130 percent, while workers’ hourly earnings rose by only 38 percent, and inflation rose just 29 percent.

From 2000–2008, individuals in the employer-sponsored market saw premiums increase an average of 90 percent.

The cost of health insurance continues to outpace income and inflation for other goods and services, and these rapidly escalating costs strain businesses, families, and individuals.

In 2009, 57 percent of people attempting to purchase insurance in the individual market found it difficult or impossible to afford coverage.

All the while, in the third quarter of 2010, the six-largest investor-owned health insurance companies (Aetna, Coventry Health, United Health, Humana, WellPoint, and Cigna) saw a 22 percent increase in combined net income, putting them on pace to break their own profit record.

The problem is that the health reform law did not go far enough to control these unfair premium increases, it leaves a loophole.

Simply stated, there is no federal authority to do anything about these rate increases, even if they are unfair. We need to close this loophole.

This is why today I am introducing, with Senators BOXER and INOUYE, the Health Insurance Rate Review Act of 2011. Representative Scharowsky is introducing companion legislation in the House of Representatives.

This legislation creates a federal fall-back rate review process, and grants regulatory authority to block or modify rate increases that are excessive, unjustified, or unfairly discriminatory.

This legislation is a simple, commonsense solution for States where the insurance commissioner does not have or
use authority to block unfair rate increases, the Secretary of Health and Human Services can do so.

On March 4, 2010, I introduced similar legislation to what I am introducing today. I worked with the Administration and the Finance Committee in putting it together, and with Representative SCHAKOWSKY. President Obama included it in his health reform proposal, but unfortunately, it did not meet the criteria for reconciliation.

The time has come now to take action.

This legislation is necessary in order to protect consumers from the egregious abuses of insurance companies, especially before the majority of the consumer protections included in health reform are fully in place in 2014. It is disturbing that year after year, health insurance premiums spiral out of control, all while insurance companies enjoy increasing profits. Insurance premiums make up a higher percentage of household income than ever before, meaning that more and more families have to choose between health care and daily living expenses, saving for retirement, and education.

This is unacceptable, and more must be done to protect consumers.

Everyone by now is familiar with the increases that Anthem/Blue Cross, a subsidiary of WellPoint, was set to impose—as much as 39 percent—for 800,000 Californians.

It turns out that Anthem Blue Cross used flawed data to calculate health insurance premium increases to hundreds of thousands of policyholders in California, resulting in increases that were larger than necessary.

According to an independent analysis, the 25 percent average increase proposed by Anthem should have only been 15.2 percent.

What is most disturbing is that Anthem’s case is not an aberration. Far from it.

This is not a problem unique to California. In the spring of 2010, health insurance companies pursued rate hikes in a number of States: as much as 60 percent in Illinois; 72 percent in Georgia; 50 percent in New Jersey; and 40 percent in Virginia, to name a few.

The White House reports that premium rates have been rising across the Nation with substantial geographic variation.

For employer-sponsored family coverage, premiums increased 88 percent in Michigan over the past decade compared to a 145 percent increase in Alaska.

A report by the Center for American Progress Action Fund found that this summer, WellPoint pursued double digit increases in the individual market for 10 other States: Colorado, Connecticut, Georgia, Indiana, Maine, Nevada, New Hampshire, New York, Virginia, and Wisconsin.

The reporting requirements in the health reform law will improve the information available, but right now, comprehensive data on the premium increases insurers are imposing does not exist.

In 2009, despite the worst economic downturn since the Great Depression, the five largest for-profit health insurance companies, WellPoint Inc., United Health Group Inc., Aetna Inc., Humana Inc., and Cigna Corp., set a full-year profit record. These companies saw a 56 percent increase in profits from 2008 to 2009, from $7.1 billion to $11.1 billion.

Furthermore, when many Americans were experiencing double-digit premium increases in 2009, high unemployment, and an average wage growth of only 2 percent, insurance CEOs gave themselves a 167 percent raise.

CEO pay for the 10 largest for-profit health insurance companies was $229.1 million in 2009, up from $85.5 million in 2008.

This doesn’t even include the tens of millions more dollars in exercised stock options, and means that these CEOs raked in nearly $1 billion in total compensation.

In the first three months of 2010, the five largest for-profit health insurance companies, WellPoint Inc., United Health Group Inc., Aetna Inc., Humana Inc., and Cigna Corp., recorded a combined net income of $3.2 billion—a 31 percent jump over the same period in 2009.

Meanwhile, large insurance companies now insure 2.8 million fewer Americans than they did on December 31, 2008. An estimated 59.1 million Americans were uninsured in the first quarter of 2010.

The California HealthCare Foundation reported that 6.8 million Californians lack health coverage.

That is 20 percent of the State’s residents who are not able to afford health insurance.

All the while, insurance companies have been reducing the amount they spend on actual health care. As profits and CEO pay increased, the amount of money insurers spent on medical care went down.

The top six insurers drove down the portion of premiums spent on medical care. For example, the share of premium dollars that CIGNA spent on medical care decreased 6.4 percent in the second quarter of 2010 compared to the prior year, and Humana’s decreased 7.4 percent.

Now, because of legislation in the health reform law, insurance companies have to spend 80–85 percent of premiums on medical care and quality improvement services, not on profits.

This will go a long way to keeping insurance company greed in check, but we need to go further.

Clearly without additional legislative requirements, health insurance companies are not going to change.

The Department of Health and Human Services recently published proposed rules defining the rate review process. These regulations are a first step towards protecting consumers and keeping insurers in check.

But they fall short of creating a strong rate review system, and rely too heavily on the notion that public disclosure of rates will cause insurance companies to change their behavior.

The regulations do not grant explicit regulatory authority—either State or Federal— to deny, modify, or block rate increases that are excessive, unjustified, or unfairly discriminatory.

The health reform law requires insurance companies to provide justification for unreasonable premium increases to the Secretary of Health and Human Services and post them on their Web sites.

The regulations subject rate increases of 10 percent or greater to additional scrutiny and review, but the State-specific thresholds in 2012 could sanction increases higher than 10 percent.

Transparency and increased scrutiny are steps forward, but there is still this loophole where there is no authority to block or modify enormous, unjustified, and unfairly discriminatory increases.

This is why I am again introducing my rate review legislation, which will grant this authority.

I believe there needs to be a Federal fallback in States that lack the legal authority, capacity, or resources to conduct strong rate review.

This legislation gives the Secretary of Health and Human Services the authority to block for-profit insurance companies, WellPoint Inc., United Health Group Inc., Aetna Inc., Humana Inc., and Cigna Corp., from charging unreasonable increases.

In some States, insurance commissioners already have that authority, and that is fine. The bill doesn’t touch them.

In Maine, for example, the State superintendent of insurance was able to block Anthem’s proposed 18.5-percent increase last year. She approved only a 10.9-percent increase.

But in at least 17 States, including my own—California—companies are not required to receive prior approval for rate increases before they take effect.

In these States, the Secretary would review potentially excessive, unjustified, or unfairly discriminatory rate increases and take corrective action. This could include blocking an increase, providing rebates to consumers, or adjusting an increase.

Under this proposal, the Secretary would work with the National Association of Insurance Commissioners to implement the rate review process. States already doing this work will continue to do so unabated and unfettered. The legislation would not affect them.

However, for the consumers in the other 17 States with no authority, such as California, protection from unfair rate hikes would be provided.

Given the variation in State rate review authority and process, I think this proposal strikes the right balance.

The reporting requirements in the health reform law will improve the authority and process, I think this proposal strikes the right balance.

The regulations do not grant explicit regulatory authority—either State or Federal—to deny, modify, or block rate increases that are excessive, unjustified, or unfairly discriminatory.
provides Federal protection for consumers who are currently at the mercy of large health insurance companies whose top priority is their bottom line.

This legislation is particularly important given a recent report by the Kaiser Family Foundation showing that many States lack the capacity and resources to conduct adequate rate review, regardless of the State’s statutory authority to review rates.

I strongly believe that we need to take action on this. The health reform law makes strides towards holding companies and shareholders accountable for providing health care at a reasonable rate.

However, there is this loophole.

So this bill becomes very necessary. Premiums are increasing every day, and people in many States have no recourse, and no way to know if a particular increase is unfair.

There needs to be a Federal fallback in States that lack the legal authority, capacity, or other resources to conduct strong rate review. In States where the Insurance Commissioner is not equipped to review, modify, and block unreasonable rates, my legislation would grant the Secretary of Health and Human Services the authority to do so.

I urge my colleagues to join me in supporting this legislation, the Health Insurance Rate Review Act of 2011, which will close this loophole.

I look forward to working with my colleagues on this important issue.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 137

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

SECTION 1. SHORT TITLE. — This Act may be cited as the "Health Insurance Rate Review Act".

SEC. 2. PROTECTION OF CONSUMERS FROM EXCESSIVE, UNJUSTIFIED, OR UNFAIRLY DISCRIMINATORY RATES.

(a) PROTECTION FROM EXCESSIVE, UNJUSTIFIED, OR UNFAIRLY DISCRIMINATORY RATES.— The first section 2794 of the Public Health Service Act (42 U.S.C. 300gg–94), as added by section 1008 of the Patient Protection and Affordable Care Act (Public Law 111–148), is amended by adding at the end the following:

"The key provisions of this bill would determine, after the date of enactment of this section and periodically thereafter, the following:

(A) In which States the State insurance commissioner or State regulator shall undertake the corrective actions under paragraph (4), as a condition of the State receiving the grant in subsection (c), based on the Secretary's determination that the State is adequately prepared to undertake and is adequately undertaking such actions.

(B) In which States the Secretary shall undertake the corrective actions under paragraph (4), in cooperation with the relevant State insurance commissioner or State regulator, based on the Secretary's determination that the State is not adequately prepared to undertake or is not adequately undertaking such actions.

(4) CORRECTIVE ACTION FOR EXCESSIVE, UNJUSTIFIED, OR UNFAIRLY DISCRIMINATORY RATES.—In accordance with the process established under this section, the Secretary or the relevant State insurance commissioner or State regulator shall take corrective actions to ensure that any excessive, unjustified, or unfairly discriminatory rates are corrected to implementation, as soon as possible thereafter, through mechanisms such as—

(A) denying rates; 
(B) modifying rates; or 
(C) requiring rebates to consumers.

(b) CLARIFICATION OF REGULATORY AUTHORITY.—Such section 2794 is further amended—

(1) in subsection (a)—

(A) in the heading, by striking "PREMIUM" and inserting "RATES"; 
(B) in paragraph (1), by striking "unreasonable increases in premiums" and inserting "potentially excessive, unjustified, or unfairly discriminatory rates, including premiums"; and

(C) in paragraph (2) —

(i) by striking "an unreasonable premium increase" and inserting "a potentially excessive, unjustified, or unfairly discriminatory rate"; 
(ii) by striking "the increase" and inserting "the rate"; and 
(iii) by striking "such increases" and inserting "such rates";

(2) in subsection (b)—

(A) by striking "premium increases" each place it appears and inserting "rates"; and 
(B) in paragraph (2)(B), by striking "premium" and inserting "rate"; and

(3) in subsection (c)(1)—

(A) in the heading, by striking "PREMIUM" and inserting "RATES"; 
(B) by inserting "that satisfy the condition under subsection (e)(3)(A) after "award grants to States"; and

(C) in subparagraph (A), by striking "premium increases" and inserting "rates".

(c) CONFORMING AMENDMENTS.—Title XXVII of the Public Health Service Act (42 U.S.C. 300gg et seq.) is amended—

(1) in section 2723 (42 U.S.C. 300gg–22), as redesignated by section 300gg–703 of the Patient Protection and Affordable Care Act (Public Law 111–148), is amended by adding at the end the following:

"(e) PROTECTION FROM EXCESSIVE, UNJUSTIFIED, OR UNFAIRLY DISCRIMINATORY RATES.—

(1) AUTHORITY OF STATES.—Nothing in this section shall be construed to prohibit a State from imposing requirements (including requirements relating to rate review standards and procedures and information reporting) on health insurance issuers with respect to rates that are in addition to the requirements of this section and are more protective of consumers than such requirements.

(2) EFFECTIVE DATE.—In carrying out this section, the Secretary shall consult with the National Association of Insurance Commissioners and consumer groups.

(3) DETERMINATION OF WHO CONDUCTS REVIEWS FOR EACH STATE.—The Secretary shall"
to Snow National Monuments; add adjacent lands to the Joshua Tree and Death Valley National Parks and the Mojave National Preserve; designate 5 new BLM wilderness areas and protect 4 important waterways—including the Amargosa River and Denio Creek—as Wild and Scenic Rivers; and enhance recreational opportunities in the desert and ensure that the training needs of the military are met.

This bill is the product of painstaking discussions with key stakeholders, environmental groups, local and State government, off-highway recreation enthusiasts, hunters, cattle ranchers, mining interests, the Department of Defense, wind and solar energy companies, California’s public utility companies, and many others. I am grateful for all of their efforts.

The previous version of my bill proposed specific improvements to the Department of the Interior’s rules governing the development of renewable energy on public lands. I’m pleased that the Department has instituted a number of new policies over the last year which have greatly improved the process. Consequently, the current bill focuses on conservation, recreation and other important uses of the California desert.

However, I intend to work with my colleagues from the West on separate legislation to further expedite the development of wind and solar energy in California and the West.

The California Desert Protection Act, which was enacted in 1994, was a sweeping piece of legislation aimed at conserving some of the most beautiful and ecologically significant lands in my home State.

The law created Death Valley National Park, Joshua Tree National Park and the Mojave National Preserve, as well as 69 desert wilderness areas managed by the Bureau of Land Management, BLM.

Collectively, it protected more than 7 million acres of desert lands, making it the largest land conservation bill in the lower 48 States in U.S. history.

To this day, it remains one of my proudest accomplishments since joining this body.

Much has changed since the passage of the California Desert Protection Act. Many of the impediments that prevented conservation of other pristine desert lands in the area no longer exist.

For example the Department of Defense concerns with designating some wilderness areas near Fort Irwin have been resolved; many mining areas inside national parks and potential wilderness have closed; grazing allotments on both BLM and National Park Service land have been retired by willing sellers; hundreds of thousands of acres of privately owned land have been donated or acquired by the Federal Government.

Yet even as these issues were resolved, new challenges have emerged.

There are now competing demands over how best to manage hundreds of thousands of acres of public lands in the desert.

Some believe the lands should be used for large-scale solar and wind facilities. But I would like to conserve critical habitat for threatened and endangered species. Some would like more acreage available for grazing or for off-road recreation.

Finally, some would like to see additional lands made available for military training and base expansion.

Two years ago, I learned that BLM had accepted applications to build vast solar and wind energy projects on former railroad lands previously owned by the Catellus Corporation. These lands had been donated to the Federal Government or acquired with taxpayer funds with the explicit goal of conservation.

Approximately $45 million of private donations—including a $5 millionland discount from Catellus Corporation—and $18 million in Federal Land and Water Conservation grants was spent to purchase these lands, with the intent of conserving them in perpetuity. As the sponsor of the legislative provisions that helped secure the deal to acquire the roughly 600,000 acres of former private land, I found the BLM’s actions unacceptable.

We have an obligation to honor our commitment to conserve these lands—and I believe we can still accomplish that goal while also fulfilling California’s commitment to develop a clean energy portfolio.

I believe the development of these new cleaner energy sources is vital to addressing climate change, yet we must be careful about selecting where these facilities are located.

I plan to work with senators from Western States to improve the renewable energy permitting process to allow quicker development of renewable energy projects on private and disturbed public land. This effort likely requires separate legislation and improved regulation.

I applaud the Department of the Interior’s efforts over the last year to address this problem, especially Interior’s proposed designation of 24 solar energy zones encompassing 677,000 acres of public land in 6 Western States. By designating these areas and streamlining the permitting process for projects proposed there, the Department has helped ensure that sensitive areas of the desert can be preserved.

As BLM finalizes the creation of these Zones and its new Solar Energy Program, I will push BLM to create a development zone in the West Mojave, conduct sufficient study of zones to ensure projects in these locations can be permitted quickly, and establish the program’s rules as expeditiously as possible.

I will continue to suggest ways that the U.S. Fish and Wildlife Service can improve permitting on private lands, the Defense Department can welcome development on its bases, and the Forest Service can utilize its own lands. These matters may require legislation.

There is enough land in California’s deserts to protect the most precarious areas of the Mojave and aggressively develop renewable resources where permitting will be rapid. California must develop 15,000 to 20,000 megawatts of renewable power to meet its climate goals by 2020, and its renewable energy permitting process will need to vastly improve for the state to meet this goal.

First, this bill will ensure that hundreds of thousands of acres of land donated to the federal government for conservation will be protected by creating the Mojave Trails National Monument. This new monument would cover approximately 941,000 acres of federal land, which includes approximately 600,000 acres of former Catellus-owned railroad lands along historic Route 66. I visited the area and was amazed by the beauty of the massive valleys, pristine dry lakes, and rugged mountains.

In addition to its iconic sweeping desert vistas and majestic mountain ranges, this area of the Eastern Mojave also contains critical wildlife corridors linking Joshua Tree National Park and the Mojave National Preserve. It also encompasses hundreds of thousands of acres designated as areas of critical environmental concern, critical habitat for the threatened desert tortoise, and ancient lava bed flows and craters. It is surrounded by more than a dozen BLM wilderness areas.

The BLM would be given the authority to both conserve the monument lands, and also to maintain existing recreational uses, including hunting, vehicular travel on open roads and trails, camping, horseback riding and rockhounding.

The bill also creates an advisory committee to help develop and oversee the implementation of the monument management plan, comprised of representatives from local, state and federal government, conservation and recreation groups, and local Native American tribes.

Before I go on to the other conservation provisions in the bill, I would like to address one important issue—and that is what should be done about some of the proposed renewable energy development projects proposed for lands included in this monument.

Although it is true that the monument will prevent further consideration of some applications to develop solar and wind energy projects on former Catellus lands or adjoining lands, it is important to note that of the proposals in question, not a single one has been granted a permit, nor is a single one under review at the California Energy Commission or under formal NEPA, National Environmental Policy Act, review at BLM.

To ensure that creation of the monument does not unnecessarily harm the
firms that worked in good faith and invested substantial time and resources to produce renewable energy in California, the legislation will offer these companies an opportunity to relocate their projects to federal renewable energy zones currently being developed by the Department of the Interior.

Additionally, the monument would not prevent the construction or expansion of necessary transmission lines critical to linking renewable energy generation facilities with the electricity grid.

Second, the bill would establish the “Sand to Snow National Monument,” encompassing 134,000 acres of land from the desert floor in the Coachella Valley up to the top of Mount San Gorgonio, the highest peak in Southern California.

The boundaries of this second, smaller new monument would include two areas of Critical Environmental Concern: Big Morongo Canyon and Whitewater Canyon, the BLM and U.S. Forest Service San Gorgonio Wilderness, the Wildlands Conservancy’s Pipe’s Canyon and Mission Creek Preserves, and additional public and private conservation lands, including two wildlife movement corridor areas connecting the Peninsular Ranges with the Transverse Ranges.

This area is truly remarkable, and would arguably be the most environmentally diverse national monument in the country. It serves as the intersection of three converging ecological systems—the Mojave Desert, the Colorado River and the San Bernardino mountains—and is one of the most important wildlife corridors in Southern California.

This monument designation would protect 23.6 miles of the Pacific Crest Trails, which for approximately 240 species of migrating and breeding birds, the second highest density of nesting birds in the United States. It also serves as a home and a crucial migration corridor for animals traveling through Joshua Tree National Park, the oasis at Big Morongo, and the higher elevations of the San Bernardino Mountains.

I’d like to make one additional point, and that is that despite its ecological significance, this area is not particularly well-known—largely because it is managed by a number of distinct entities, including the BLM, Forest Service, National Park Service and private preservation organizations.

So, the monument designation would help to attract more attention to one of California’s natural gems.

Third, the bill establishes new wilderness areas and allows more appropriately designated as Wilderness Study Areas.

The 1994 California Desert Protection Act extended wilderness protection to many areas in the desert, yet several areas near Fort Irwin were designated as wilderness study areas in order to allow the base to expand.

Now that Fort Irwin’s expansion is complete, it is time to consider these areas for permanent wilderness designation.

The bill protects approximately 250,000 acres of BLM land as wilderness in five areas. These areas contain some of the most pristine and rugged landscapes in California.

Beyond Fort Irwin, the bill also expands wilderness areas in Death Valley National Park, 90,000 acres, and the San Bernardino National Forest, 4,300 acres, inside the Sand to Snow National Monument by this bill.

The bill also releases 126,000 acres of land from their existing wilderness study area designation in response to requests from local government and recreation users. This will allow the land to be made available for other purposes, including recreational off-highway vehicle use on designated routes.

Fourth, this bill would create the Vinagre Wash Special Management Area.

The agreed-upon designation for this area in Imperial County, near the Colorado River, was reached after careful discussion with key stakeholders.

Although the land possesses some wilderness characteristics, there are also concerns that the Navy of the Navajo and the Marine Corps currently use some of this area for occasional training. Additionally, many local residents enjoy touring the rolling hills in the area by jeep.

Through the combined efforts of conservationists, local residents and county government, and the Department of Defense, a compromise conservation designation was developed.

For the land known as the Vinagre Wash, the bill will create a “special management area” covering 76,000 acres, including 12,000 acres of former railroad lands donated to the federal government.

Of these, 49,000 acres are designated as potential wilderness and only become part of the national monument when the Department of Defense determines these lands are no longer needed for Navy Seal training.

This designation will permit the area to continue to be accessed by vehicles and be used for camping, hiking, mountain biking, sightseeing, and off-highway vehicle use on designated routes and protect tribal cultural assets in the area.

Fifth, the bill adds to or designates four new Wild and Scenic Rivers, totaling 76 miles in length. These designations will ensure the rivers remain clean and free-flowing and that their immediate environments are preserved. These beautiful waterways are Deep Creek and the Whitewater River in and near the San Bernardino National Forest, as well as the Amargosa River and Surprise Canyon Creek near Death Valley National Park.

Sixth, the bill adds approximately 74,000 acres of additional land to the three National Parks established by the 1994 California Desert Protection Act: 41,000 acres in Death Valley National Park. This includes former mining areas where the claims have been retired and a narrow strip of BLM land between National Park and Defense Department boundaries that has made BLM management difficult; almost 30,000 acres in the Mojave National Preserve. This land was not included in the 1994 bill and the Wildlands Conservancy because of the potential for a new mining claim. However, the mining operations ceased several years ago and the reclamation process is nearly complete. Additionally, a 2007 analysis by the Interior Department recommended the area be suitable to the Preserve’s 2,900 acres in Joshua Tree National Park. This includes multiple small parcels of BLM land designated for disposal on its periphery. Transferring this land to the Park Service would help protect Joshua Tree by preserving these undeveloped areas that border residential communities.

Seventh, the bill designates new lands as Off-Highway Vehicle Recreation Areas.

One of the key goals I have strived for in this bill is find balance to ensure that the many different needs and uses in the desert are accommodated with the least possible conflict. Some of the most frequent visitors to the desert are the off-highway recreation enthusiasts.

In California alone, there are over 1 million registered off-highway vehicles, many of which can be found exploring thousands of miles of desert trails or BLM designated open areas.

However, in order to meet military training needs, the Marine Corps is studying the potential expansion of Marine Corps Air Ground Combat Center at Twentynine Palms into Johnson Valley, the largest OHV area in the county. I strongly support providing our troops with the best possible training, but if the Marines need to expand the base into Johnson Valley, this area has the potential to result in the loss of tens of thousands of acres of OHV recreation lands.

In 2009 I met with Major General Eugene Payne, Assistant Deputy Commandant for Installations and Logistics, and Brigadier General Melvin Spiese, Commanding General, Training and Education Command, to discuss this issue, and I am very grateful for their efforts to consider base expansion options that would preserve much of Johnson Valley for recreation.

As a result of these meetings, the Marine Corps has committed to studying an alternative that would allow for a portion of Johnson Valley to be used exclusively for military training, another portion to be used exclusively for continued OHV recreation, and a third area for joint use. While the environmental review process must first be completed, I am hopeful that this option will prevail for the benefit of the Marines and recreational users of Johnson Valley.

The lesson learned from Johnson Valley is that, despite the vast size of the California desert, there are relatively
few areas dedicated to OHV recreation, and even these areas face increasing competition from other types of uses. These areas are important not only to the hundreds of thousands who enjoy them, but also to the local economy that depends on their tourist dollars. Without adequate protection, the desert areas, we also protect conservation areas by providing appropriate places for OHV recreation.

This bill will designate five existing OHV areas in the Mojave desert as permanent OHV areas, providing off-highway groups some certainty that these uses will be protected as much as conservation areas. Collectively, these areas could be as much as 314,000 acres, depending on what, if any, of Johnson Valley is ultimately needed by the Marines.

This section of the bill also requires the Secretary of the Interior to conduct a study to determine which, if any, lands adjacent to these recreation areas would be suitable for addition. This will help make up for some of the lost acres in Johnson Valley should the Marines decide to expand there.

Finally, this bill includes other key provisions that address various challenges and opportunities in the California desert, including state land exchanges. There are currently about 370,000 acres of state lands spread across the California desert in isolated 640 acre parcels. Because many of these acres are in state parks, wilderness, the proposed monuments or conservation areas, they are largely unusable. The bill seeks to remedy that problem by requiring the Department of the Interior to develop and implement a plan with the state to complete the exchange of these lands for other BLM or GSA owned property in the next ten years. These land exchanges will help consolidate the state lands into larger, more usable areas that could potentially provide the state with viable sites for renewable energy development, off-highway vehicle recreation or other commercial purposes.

Military activities. The bill ensures the right of the Department of Defense to conduct low-level flights over wilderness, national parks and national monuments.

Climate change and wildlife corridors. The bill requires the Department to study the impact of climate change on California desert species migration, incorporate the study’s results and recommendations into land use management plans, and consider the study’s findings when making decisions granting rights of way for future public land uses.

Tribal uses and interests. The bill requires the Secretary to ensure access for tribal cultural activities within national parks, monuments, wilderness and other areas designated within the bill. It also requires the Secretary to develop a cultural resources management plan to protect a sacred tribal trail along the Colorado River between southern Nevada and the California-Baja border.

Prohibited uses of donated and acquired lands. In order to ensure that donated and acquired Catellus lands outside the Mojave Trails National Monument be maintained for conservation, the bill prohibits their use for development, mining, off-highway vehicle use, except designated routes, grazing, military training and other surface disturbing activities. The Secretary of the Interior is authorized to make limited exceptions in cases where it is deemed in the public interest, but comparable lands would have to be purchased and donated to the federal government as mitigation for lost acreage. All of these provisions, when taken together, would serve to complement the lasting conservation established by the California Desert Protection Act—while ensuring that other important local uses are maintained in appropriate areas.

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"(3) Study area.―The term ‘study area’ means the land that—
(A) is described in—
(i) the notice of the Bureau of Land Management of September 15, 2009 entitled Notice of Proposed Legislative Withdrawal and Opportunity for Public Comment; California,' (73 Fed. Reg. 53289); or
(ii) the subsequent notice in the Federal Register that is related to the notice described in clause (i); and
(B) has been segregated by the Director of the Bureau of Land Management.

SEC. 1302. ESTABLISHMENT OF THE MOJAVE TRAILS NATIONAL MONUMENT.

(a) Establishment.―There is designated in the State of California by the Secretary in accordance with this title a monument to be known as the Mojave Trails National Monument.

(b) PURPOSES.―The purposes of the Monument are—
(1) to preserve the nationally significant biological, cultural, recreational, geological, educational, historic, scenic, and scientific values—
(A) in the Central and Eastern Mojave Desert; and
(B) along historic Route 66; and
(2) to secure the opportunity for present and future generations to experience and enjoy the magnificent vistas, wildlife, land forms, and natural and cultural resources of the Monument.

(c) Boundaries.―
(1) IN GENERAL.―Except as provided in paragraph (2), the Monument shall consist of the Federal land and Federal interests in land within the boundaries depicted on the map.

(2) Exclusions.—
(A) study area.―Subject to subparagraph (B), any land within the study area that is not withdrawn shall be incorporated into the Monument.

(B) map. legal descriptions.―
(A) Legal description.―As soon as practicable after the date of enactment of this title, the Secretary shall submit to the Committee on Natural Resources and the Subcommittee on Energy and Natural Resources of the Senate legislation describing the land and water quality outside the boundary of the Monument.

(3) No additional regulation.―Nothing in this title requires the Secretary to establish regulations for the conservation and protection of the Monument.

(4) Management plan.―
(A) In General.―The Secretary shall—
(i) submit the management plan to—
(I) the Committee on Natural Resources of the House of Representatives; and
(II) the Committee on Energy and Natural Resources of the Senate; and
(ii) make the management plan available to the public.

(B) Inclusion.―The management plan shall include provisions that—
(A) provide for the conservation and protection of the Monument;
(B) authorize the continued recreational use of the Monument (including hiking, camping, hunting, mountain biking, sightseeing, off-highway vehicle recreation on designated routes, rockhounding, and horseback riding), if the recreational uses are consistent with the utility rights-of-way or corridors authorized under section 1304(f); and
(2) subject to valid existing rights, manage the Monument to protect the resources of the Monument, in accordance with—
(A) this Act;
(B) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and
(C) any other applicable provisions of law.

(C) Cooperation agreements.―General Administration, the Secretary, and the Monument plan for the conservation and protection of the Monument.

(D) Adjacent management.—
(I) The Secretary shall—
(ii) the provisions of the management plan under paragraph (2); and
(iii) applicable Federal law.

(II) effect of section.―Nothing in this section diminishes or alters existing authorities applicable to Federal land included in the Monument.

SEC. 1303. MANAGEMENT OF THE MONUMENT.

(a) In General.―The Secretary shall—
(1) only allow uses of the Monument that—
(A) are consistent with the utility rights-of-way or corridors authorized under section 1204(f); and
(2) subject to valid existing rights, manage the Monument to protect the resources of the Monument, in accordance with—
(A) this Act;
(B) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and
(C) any other applicable provisions of law.

(b) Cooperation agreements.―General Administration, the Secretary, and the Monument plan for the conservation and protection of the Monument.

(c) Map; legal descriptions.—
"(3) map. legal descriptions.―
(A) Legal description.―As soon as practicable after the date of enactment of this Act, the Secretary shall submit to the Committee on Natural Resources and the Subcommittee on Energy and Natural Resources of the Senate legislation describing the land and water quality outside the boundary of the Monument.

(B) map. legal descriptions.―
(A) Legal description.―As soon as practicable after the date of enactment of this title, the Secretary shall submit to the Committee on Natural Resources and the Subcommittee on Energy and Natural Resources of the Senate legislation describing the land and water quality outside the boundary of the Monument.

(3) No additional regulation.―Nothing in this title requires the Secretary to establish regulations for the conservation and protection of the Monument.

(4) Management plan.―
(A) In General.―The Secretary shall—
(i) submit the management plan to—
(I) the Committee on Natural Resources of the House of Representatives; and
(II) the Committee on Energy and Natural Resources of the Senate; and
(ii) make the management plan available to the public.

(B) Inclusion.―The management plan shall include provisions that—
(A) provide for the conservation and protection of the Monument;
(B) authorize the continued recreational use of the Monument (including hiking, camping, hunting, mountain biking, sightseeing, off-highway vehicle recreation on designated routes, rockhounding, and horseback riding), if the recreational uses are consistent with this section and any other applicable law;

(2) subject to valid existing rights, manage the Monument to protect the resources of the Monument, in accordance with—
(A) this Act;
(B) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and
(C) any other applicable provisions of law.

(D) Cooperation agreements.―General Administration, the Secretary, and the Monument plan for the conservation and protection of the Monument.

(E) Adjacent management.—
(I) The Secretary shall—
(ii) the provisions of the management plan under paragraph (2); and
(iii) applicable Federal law.

(II) effect of section.―Nothing in this section diminishes or alters existing authorities applicable to Federal land included in the Monument.

SEC. 1304. USES OF THE MONUMENT.

(a) Use of off-highway vehicles.—
(I) In General.―The use of off-highway vehicles in the Monument (including the use of off-highway vehicles for commercial touring) shall be permitted to continue on designated routes, subject to all applicable law and authorized by the management plan.

(II) Nondesignated routes.―Off-highway vehicle access shall be permitted on nondesignated routes and trails in the Monument—
(A) for administrative purposes;
(B) to respond to an emergency; or
(C) as authorized under the management plan.

(b) Hunting, trapping, and fishing.—
(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall permit hunting, trapping, and fishing within the Monument in accordance with applicable Federal and State laws (including regulations) in effect as of the date of enactment of this title.

(2) TRAPPING.—No amphibians or reptiles may be hunted, trapped, or fished within the Monument, including the transfer of title to the trapping permit to the Secretary or to a private party.

(3) PERMIT REQUIREMENT.—The Secretary may acquire base property and associated trapping permits within the Monument for purposes of permanently retiring the permit if—

(A) the permittee is a willing seller;

(B) the permittee and Secretary reach an agreement concerning the terms and conditions of the acquisition; and

(C) termination of the allotment would further the purposes of the Monument described in section 1302(b).

(4) DELEGATION TO STATE AND PRIVATE LAND.—The Secretary shall provide adequate access to each owner of non-Federal land or interests in non-Federal land within the boundary of the Monument to ensure the reasonable use and enjoyment of the land or interest by the owner.

(5) LIMITATIONS.—

(A) COMMERCIAL ENTERPRISES.—Except as provided in paragraphs (2) and (3), or as required for the maintenance, upgrade, expansion, or development of energy transport facilities, the Secretary may authorize within the Monument the operation of commercial enterprises described in subparagraph (a), no commercial enterprises shall be authorized within the boundary of the Monument after the date of enactment of this title.

(B) AUTHORIZED EXCEPTIONS.—The Secretary may authorize exceptions to paragraph (1) if the Secretary determines that the commercial enterprises would further the purposes described in section 1302(b).

(2) IN GENERAL.—Nothing in this title precludes, prevents, or inhibits the maintenance, upgrade, expansion, or development of energy transport facilities within the Monument that are critical to reducing the effects of climate change on the environment.

(2) AUTHORIZATION.—The Secretary shall, to the maximum extent practicable—

(A) permit rights-of-way and alignments that best protect the values and resources of the Monument described in section 1302(b); and

(B) ensure that existing rights-of-way and utility corridors within the Monument are fully utilized before permitting new rights-of-way or designating new utility corridors within the Monument.

(3) EFFECT ON EXISTING FACILITIES AND RIGHTS-OF-WAY.—Nothing in this section terminates or limits—

(A) any existing right-of-way within the Monument in existence on the date of enactment of this title (including customary operation, maintenance, repair, or replacement activities in rights-of-way); or

(B) a right-of-way authorization issued on the expiration of an existing right-of-way authorization described in subparagraph (A).

(4) UPGRADING AND EXPANSIONS OF EXISTING RIGHTS-OF-WAY.—Nothing in this subsection prohibits the upgrading (including the construction or replacement), expansion, or assignment of an existing utility transmission line for the purpose of increasing the capacity of—

(A) a transmission line in existing rights-of-way; or

(B) a right-of-way issued, granted, or permitted by the Secretary that is contiguous or adjacent to existing transmission line rights-of-way.

(5) INTERSTATE 40 TRANSPORTATION CORRIDOR.—For purposes of underground utility facilities described in paragraph (2), the Secretary shall consider the Interstate 40 transportation corridor to be equivalent to an existing utility right-of-way corridor.

(6) NEW ELECTRIC TRANSMISSION CORRIDOR.—

(A) IN GENERAL.—Any new rights-of-way or new uses within existing rights-of-way shall—

(1) only be permitted in energy corridors or expansions of energy corridors that are designated as of the date of enactment of this title; and

(2) subject to subparagraph (B), require review and approval under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(B) APPROVAL.—New rights-of-way or uses or expansions of existing corridors under subparagraph (A) shall only be approved if—

(i) provides connectivity across the landscape that is equivalent to the connectivity provided by the existing corridor;

(ii) meets the criteria established by—

(I) section 368 of the Energy Policy Act of 2005 (42 U.S.C. 15926); and

(II) the criteria established by the Secretary.

(C) MANAGEMENT.—

(i) the Secretary shall consider the existing locations of the corridors described in paragraph (3); and

(ii) shall subject to paragraph (5), may amend the location of any energy corridors to comply with purposes described in section 1302.

(D) WEST WIDE ENERGY CORRIDOR.—

(1) IN GENERAL.—Subject to paragraph (2), to further the purposes of the Monument described in section 1302(b), the Secretary shall provide locations for—

(A) electric transmission facilities that—

(i) are identified as critical—

(I) to provide locations for—

(aa) a right-of-way corridor; and

(bb) electric transmission facilities that—

(1) improve reliability, relieve congestion, and enhance the national grid; and

(2) oil, gas, and hydrogen pipelines; and

(3) to provide locations for electric transmission facilities that—

(i) promote renewable energy generation; and

(ii) further the interest of the United States if the transmission facilities are identified as critical—

(1) in a Federal law; or

(2) through a regional transmission planning process; or

(3) is consistent with higher voltage transmission facilities critical to the purposes described in clause (1) or (ii).

(2) LAND USE PLANNING.—In conducting land use planning for the Monument, the Secretary shall consider the existing locations of the corridors described in paragraph (3).

(3) WITHDRAWALS.—Subject to paragraph (4), the Secretary shall withdraw from—

(A) the lands included within the boundaries of the Monument; and

(B) the lands identified under section 368 of the Energy Policy Act of 2005 (42 U.S.C. 15926(a)), in accordance with applicable laws (including regulations).

(4) OVERFLIGHTS.—Nothing in this title or the management plan restricts or precludes—

(A) overflights (including low-level overflights) of military, commercial, and general aviation aircraft that can be seen or heard within the Monument;

(B) the designation or creation of new units of special use airspace; or

(C) the establishment of military flight training routes over the Monument.

(5) CONSULTATION REQUIRED.—Before amending a corridor under paragraph (4)(B), the Secretary shall consult with the appropriate advisory committees (as those committees are identified in section 368(a) of the Energy Policy Act of 2005 (42 U.S.C. 15926)), in accordance with applicable laws (including regulations).

(6) WITHDRAWAL.—

(A) IN GENERAL.—Subject to valid existing rights and except as provided in paragraph (2), the Federal land and interests in Federal lands that are located within the Monument are withdrawn from—

(i) all forms of entry, appropriation, or disposal under the public land laws;

(ii) location, entry, and patent under the public land mining laws;

(iii) the operation of the mineral leasing, geothermal leasing, and mineral materials laws; and

(iv) energy development and power generation.
(2) EXCHANGE.—Paragraph (1) does not apply to an exchange that the Secretary determines would further the protective purposes of the Monument.

(3) ACCESS TO RENEWABLE ENERGY FACILITIES.—

(1) IN GENERAL.—On a determination that no reasonable alternative access exists and subject to subparagraph (2), the Secretary may allow new right-of-ways within the Monument to provide vehicular access to renewable energy project sites outside the boundaries of the Monument.

(2) RESTRICTIONS.—To the maximum extent practicable, the right-of-way shall be designed and sited to be consistent with the purposes of the Monument described in section 1302(b).

**SECTION 1303. ACQUISITION OF LAND**

(a) In General.—The Secretary may acquire for inclusion in the Monument any land or interests in land within the boundary of the Monument owned by the State, units of local government, Indian tribes, or private individuals only by—

(1) donation;

(2) exchange with a willing party; or

(3) purchase from a willing seller for fair market value.

(b) USE OF EASEMENTS.—To the maximum extent practicable and only with the approval of the landowner, the Secretary may use prescription easements to acquire an interest in land in the Monument except that fee simple title to the land.

(c) INCORPORATION OF ACQUIRED LAND AND INTERESTS IN LAND.—Any land or interest in land within the boundaries of the Monument that is acquired by the United States after the date of enactment of this title shall be added to and administered as part of the Monument.

(d) DONATED AND ACQUIRED LAND.—

(1) All land within the boundary of the Monument donated to the United States or acquired using amounts from the land and water conservation fund established under section 2 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–5) before, on, or after the date of enactment of this title—

(A) will be managed under the title “donated and acquired land”; and

(B) shall be managed consistent with the purposes of the Monument described in section 1302(b).

(2) EFFECT ON MONUMENT.—Land within the boundary of the Monument that is contiguous with land donated to the United States or acquired using amounts from the land and water conservation fund established under section 2 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–5) shall be managed in a manner consistent with conservation purposes, subject to applicable law.

**SECTION 1306. ADVISORY COMMITTEE**

(a) Establishment.—The Secretary shall establish an advisory committee for the Monument, the purpose of which is to advise the Secretary with respect to the preparation and implementation of the management plan required under section 1303(g).

(b) Membership.—To the extent practicable, the advisory committee shall include the following members, to be appointed by the Secretary:

(1) A representative with expertise in natural science and research selected from a regionally based research institute.

(2) A representative of the California Natural Resources Agency.

(3) A representative of the California Public Utility Commission.

(4) A representative of the County of San Bernardino, California.

(5) A representative of each of the cities of Barstow, Needles, Twentynine Palms, and Yucca Valley, California.

(6) A representative of each of the Colorado River tribes, the Mojave, and the Chemehuevi Indian tribes.

(7) A representative from the Department of Defense.

(8) A representative of the Wildlands Conservancy.

(9) A representative of a local conservation organization.

(10) A representative of a historical preservation organization.

(11) A representative from each of the following recreational activities:

(A) Off-road vehicles.

(B) Hunting.

(C) Rockhounding.

(D) TERMS.—

(1) IN GENERAL.—In appointing members under paragraphs (1) through (11) of subsection (b), the Secretary shall appoint 1 primary member and 1 alternate member that meets the qualifications described in each of those paragraphs.

(2) VACANCY.—

(A) PRIMARY MEMBER.—A vacancy on the advisory committee with respect to a primary member shall be filled by the applicable alternate member.

(B) ALTERNATE MEMBER.—The Secretary shall appoint a new alternate member in the event of a vacancy with respect to an alternate member of the advisory committee.

(3) TERMINATION.—

(A) IN GENERAL.—The term of all members of the advisory committee shall terminate on the termination of the advisory committee under subsection (g) to provide ongoing recommendations on the management of the Monument.

(B) QUORUM.—A quorum of the advisory committee shall consist of a majority of the primary members.

(4) CHAIRPERSON AND PROCEDURES.—

(a) IN GENERAL.—The advisory committee shall select a chairperson and vice chairperson from among the primary members of the advisory committee.

(b) DUTIES.—The chairperson and vice chairperson selected under paragraph (1) shall establish any rules and procedures for the advisory committee that the chairperson and vice-chairperson determine to be necessary or desirable.

(5) SERVICE WITHOUT COMPENSATION.—Members of the advisory committee shall serve without pay.

(6) TERMINATION.—The advisory committee shall cease to exist on—

(1) the date that is 180 days after the date of enactment of this title; or

(2) the date that is 180 days after the date of the designation of the Solar Energy Zones under the Solar Energy Programmatic Environmental Impact Statement.

**SECTION 1307. RENEWABLE ENERGY RIGHT-OF-WAY APPLICATIONS**

(a) IN GENERAL.—Applicants for right-of-way for the development of solar energy facilities that have been terminated by the establishment of the Monument shall be granted the right of first refusal to apply for replacement sites that—

(1) have not previously been encumbered by right-of-way applications; and

(2) are within the Solar Energy Zones designated by the Solar Energy Programmatic Environmental Impact Statement of the Department of the Interior and the Department of Energy.

(b) ELIGIBILITY.—To be eligible for a right of first refusal under subsection (a), an applicant shall have, on or before December 1, 2009—

(1) submitted an application for a right-of-way to the Bureau of Land Management; and

(2) completed a project of development to develop a solar energy facility on land within the Monument;

(3) submitted cost recovery funds to the Bureau of Land Management; and

(4) successfully submitted an application for an interconnection agreement with an electrical grid operator that is registered with the North American Electric Reliability Corporation; and

(b) a secured a power purchase agreement; or

(b) a financially and technically viable solar energy facility project, as determined by the Director of the Bureau of Land Management.

(c) EQUIVALENT ENERGY PRODUCTION.—

Nothing in this section alters, affects, or displaces primary rights-of-way applications within the Solar Energy Study Areas unless the applications are otherwise altered, affected, or displaced as a result of the Solar Energy Programmatic Environmental Impact Statement of the Department of the Interior and the Department of Energy.

(d) DEADLINES.—A right of first refusal granted under this section shall only be exercisable by the later of—

(1) the date that is 180 days after the date of enactment of this title; or

(2) the date that is 180 days after the date of the designation of the Solar Energy Zones under the Solar Energy Programmatic Environmental Impact Statement.

**TITLE XIV—SAND TO SNOW NATIONAL MONUMENT**

**SECTION 1401. DEFINITIONS**

In this title:

(1) MAP.—The term ‘map’ means the map entitled ‘Boundary Map, Sand to Snow National Monument’ and dated October 26, 2009.

(2) MONUMENT.—The term ‘Monument’ means the Sand to Snow National Monument established by section 1402(a).

(3) SECRETARIES.—The term ‘Secretaries’ means the Secretary of the Interior and the Secretary of Agriculture, acting jointly.

**SECTION 1402. ESTABLISHMENT OF THE SAND TO SNOW NATIONAL MONUMENT**

(a) ESTABLISHMENT.—There is designated in the State the Sand to Snow National Monument.

(b) PURPOSES.—The purposes of the Monument are—

(1) to preserve the nationally significant biological, cultural, educational, geological, historic, scenic, and recreational values at the convergence of the Mojave and Colorado Deserts and the San Bernardino Mountains; and

(2) to secure the opportunity for present and future generations to experience and enjoy the magnificent vistas, wildlife, land forms, and natural and cultural resources of the Monument.
(c) BOUNDARIES.—The Monument shall consist of the Federal land and Federal interests in land within the boundaries depicted on the map.

(d) MAP AND LEGAL DESCRIPTIONS.—

(1) LEGAL DESCRIPTION.—As soon as practicable after the date of enactment of this title, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives the legal descriptions of the Monument, on the map.

(2) CORRECTIONS.—The map and legal descriptions of the Monument shall have the same force and effect as if included in this title, except the Secretary may correct clerical and typographical errors in the map and legal descriptions.

(3) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in appropriate offices of the Bureau of Land Management.

SEC. 1403. MANAGEMENT OF THE MONUMENT.

(a) IN GENERAL.—The Secretary shall—

(1) only allow uses of the Monument that—

(A) further the purposes described in section 1402(b);

(B) are included in the management plan developed under subsection (g); and

(C) do not interfere with the utility rights-of-way authorized under section 1405(e); and

(2) subject to valid existing rights, manage the Monument to protect the resources of the Monument, in accordance with—

(A) this title;

(B) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and

(C) any other applicable provisions of law.

(b) COOPERATIVE AGREEMENTS; GENERAL AUTHORITY.—Consistent with the management plan and existing authorities applicable to Federal land and Federal interests in land within the boundaries of the Monument that is acquired by the Secretary of the Interior or the Secretary of Agriculture after the date of enactment of this title shall be managed by the Secretary of Agriculture or the Secretary of the Interior, respectively, in accordance with this subsection.

(c) LIMITATIONS.—

(1) PROPERTY RIGHTS.—The establishment of the Monument does not—

(A) affect—

(i) any property rights of an Indian reservation, individually held trust land, or any other Indian allotments;

(ii) any private property rights within the boundaries of the Monument; or

(B) grant to the Secretary any authority on or over non-Federal land not already provided by law.

(2) AUTHORITY.—The authority of the Secretary under this title extends only to Federal land and Federal interests in land included in the Monument.

(d) ADJACENT MONUMENT.—

(1) IN GENERAL.—Nothing in this title creates any protective perimeter or buffer zone around the Monument.

(2) ACTIVITIES AROUND MONUMENT.—The fact that an activity or use on land outside the Monument can be seen or heard within the Monument shall not preclude the activity or use outside the boundary of the Monument.

(3) NO ADDITIONAL REGULATIONS.—Nothing in this title requires additional regulation of activities on land outside the boundary of the Monument.

(4) AIR AND WATER QUALITY.—Nothing in this title affects the standards governing air or water quality outside the boundary of the Monument.

(g) MANAGEMENT PLAN.—

(1) IN GENERAL.—The Secretary shall—

(A) not later than 3 years after the date of enactment of this title, complete a management plan for the protection and preservation of the Monument; and

(B) on completion of the management plan—

(i) submit the management plan to—

(I) the Committee on Natural Resources of the House of Representatives; and

(II) the Committee on Energy and Natural Resources of the Senate; and

(ii) make the management plan available to the public.

(2) INCLUSIONS.—The management plan shall include provisions that—

(A) provide for the conservation and protection of the Monument;

(B) authorize the continued recreational uses of the Monument (including hiking, camping, hunting, mountain biking, sightseeing, off-highway vehicle recreation on designated routes, rockhounding, and horseback riding); if the recreational uses are consistent with this title and any other applicable law; and

(C) address the address for and, as necessary, establish plans for, the installation, construction, and maintenance of public utility or public utility transport facilities within the rights-of-way in the Monument outside of designated wilderness areas, including provisions that require that—

(i) the activities be conducted in a manner that minimizes the impact on Monument resources (including resources relating to the ecological, cultural, historic, and scenic viewshed of the Monument), in accordance with any other applicable law; and

(ii) the facilities are consistent with this section and any other applicable law;

(3) PREPARATION AND IMPLEMENTATION.—

(A) LAW.—The Secretary shall prepare and implement the management plan in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and any other applicable laws.

(B) CONSULTATION.—In preparing and implementing the management plan, the Secretary shall periodically consult with—

(i) the appropriate committee established under section 1406;

(ii) interested private property owners and holders of valid existing rights located within the boundaries of the Monument; and

(iii) representatives of the Morongo Band of Mission Indians and other Indian tribes with historic or cultural ties to land within, adjacent to, or outside the Monument, regarding the management of portions of the Monument that are of cultural importance to the Indian tribes.

(d) LIMITATIONS.—

(1) COMMERCIAL ENTERPRISES.—Except as provided in paragraphs (2) and (3), as required for the maintenance, upgrade, expansion, or development of energy transport facilities in the corridors described in subsection (e), no commercial enterprises shall be authorized within the boundary of the Monument after the date of enactment of this title.

(2) AUTHORIZED EXCEPTIONS.—The Secretary may authorize exceptions to paragraphs (1) if the Secretary determines that the commercial enterprises would further the purposes described in section 1402(b).

(3) TRANSMISSION AND TELECOMMUNICATION FACILITIES.—This subsection does not apply to—

(A) transmission and telecommunication facilities that are owned or operated by a utility subject to regulation by the Federal Government, the State of California, or any special district; or

(B) use of off-highway vehicles.

(B) USE OF OFF-HIGHWAY VEHICLES.—

(1) IN GENERAL.—The use of off-highway vehicles in the Monument (including the use of off-highway vehicles for commercial touring) shall be permitted to continue on designated routes, subject to all applicable law and authorized by the management plan.

(2) NONDESIGNATED ROUTES.—Off-highway vehicle access shall be permitted on non-designated routes and trails in the Monument—

(A) for administrative purposes;

(B) to respond to an emergency; or

(C) as authorized under the management plan.

(3) INVENTORY.—Not later than 2 years after the date of enactment of this title, the Director of the Bureau of Land Management shall complete an inventory of all existing routes in the Monument.

(B) HUNTING, TRAPPING, AND FISHING.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall permit hunting, trapping, and fishing within the Monument.

(2) AUTHORIZED EXCEPTIONS.—

(A) AGRICULTURAL IMPORTANCE.—The Secretary may authorize activities on or over Federal land and Federal interests in land that are of agricultural importance to the owner of the land.

(B) RESEARCH.—The Secretary may authorize activities on or over Federal land and Federal interests in land in order to conduct research.

(C) SURVEY.—The Secretary may authorize activities on or over Federal land and Federal interests in land in order to conduct surveying.

(D) CONSTRUCTION OF ROAD.—The Secretary may authorize activities on or over Federal land and Federal interests in land in order to construct a road.

(E) RANGER STATIONS.—The Secretary may authorize activities on or over Federal land and Federal interests in land in order to establish ranger stations.

(3) TRANSMISSION AND TELECOMMUNICATION FACILITIES.—This subsection does not apply to—

(A) transmission and telecommunication facilities that are owned or operated by a utility subject to regulation by the Federal Government, the State of California, or any special district; or
Government or a State government or a State utility with a service obligation (as those terms are defined in section 217 of the Federal Power Act (16 U.S.C. 824q)); or
"(B) to provide locations for new utility corridors within the Monument that operate on designated routes.
"(e) RIGHTS-OF-WAY.—
"(1) IN GENERAL.—Nothing in this Act precludes, prevents, or inhibits the maintenance, upgrade, expansion, or development of energy transport facilities within the Monument that are critical to reducing the effects of climate change on the environment.
"(2) RIGHT-OF-WAY.—To the maximum extent practicable—
"(A) the Secretary shall permit rights of way and alignments that best protect the values and resources of the Monument described in section 1402(b); and
"(B) the Secretary shall ensure that existing rights-of-way and utility corridors within the Monument are fully utilized before permitting new rights-of-way or designing new utility corridors within the Monument.
"(3) EFFECT ON EXISTING FACILITIES AND RIGHTS-OF-WAY.—Nothing in this section terminates or limits—
"(A) any valid right-of-way in existence within the Monument on the date of enactment, including customary operations, maintenance, repair, or replacement activities in a right-of-way; or
"(B) a right-of-way authorization issued on the expiration or the assignment of an existing right-of-way authorization described in subparagraph (A).
"(4) UPGRADE AND EXPANSION OF EXISTING RIGHTS-OF-WAY.—Nothing in this subsection prohibits the upgrading (including the construction or replacement), expansion, or assignment of an existing utility transmission line for the purpose of increasing the capacity of—
"(A) a transmission line in existing rights-of-way; or
"(B) a right-of-way issued, granted, or permitted by the Secretary that is contiguous or adjacent to existing transmission line rights-of-way.
"(5) NEW RIGHTS-OF-WAY.—
"(A) IN GENERAL.—Any new rights-of-way or new uses within existing rights-of-way shall, to the maximum extent practicable, be designed and sited to be consistent with the purposes of the Monument described in section 1402(b); and
"(B) the Secretary shall acquire an interest in land in the Monument.
"(6) EFFECT ON ENERGY TRANSPORT CORRIDORS.—Nothing in this subsection terminates or limits the utility of energy transport corridors located within the Monument designated by a record of decision—
"(A) to provide locations for—
"(i) electric transmission facilities that improve reliability, relieve congestion, and enhance the national grid; and
"(ii) high-speed rail facilities; and
"(B) to provide locations for electric transmission facilities that—
"(i) promote renewable energy generation;
"(ii) are part of the energy transport segment of the United States if the transmission facilities are identified as critical in law or through a regional transmission planning process; or
"(iii) are new or upgrade transmission facilities critical to the purposes described in clause (i) or (ii).
"(7) LAND USE PLANNING.—In conducting land use planning for the Monument, the Secretary—
"(A) shall consider the existing locations of the corridors described in paragraph (6); and
"(B) subject to paragraph (8), may amend the location of any energy corridors to comply with purposes of the Monument if the amended corridor—
"(i) provides connectivity across the landscape that is equivalent to the connectivity provided by the existing location;
"(ii) meets the criteria established by—
"(I) section 386 of the Energy Policy Act of 2005 (42 U.S.C. 19926); and
"(II) the Secretary for decision for the applicable corridor; and
"(iii) does not impair or restrict the uses of existing rights-of-way.
"(8) CONSULTATION REQUIRED.—Before amending a corridor under paragraph (7)(B), the Secretary shall consult with all interested parties (including the persons identified in section 298(a) of the Energy Policy Act of 2005 (42 U.S.C. 19926(a))), in accordance with applicable laws (including regulations).
"(9) OVERFLIGHTS.—Nothing in this title or the management plan restricts or precludes—
"(1) overflights (including low-level overflights) of commercial, and general aviation aircraft that can be seen or heard within the Monument;
"(2) the designation or creation of new units of special use airspace; or
"(3) the establishment of military flight training routes over the Monument;
"(10) WITHDRAWAL.—
"(i) IN GENERAL.—Subject to valid existing rights and except as provided in paragraph (2), the Federal land and interests in Federal land included within the Monument are withdrawn from—
"(A) all forms of entry, appropriation, or disposal under the public land laws;
"(B) location, entry, and patent under the public land mining laws;
"(C) operation of the mineral leasing, geothermal leasing, and mineral materials laws; and
"(D) energy development and power generation.
"(ii) EXCHANGE.—(Paragraph (1) does not apply to an exchange that the Secretary determines would protect the purposes of the Monument.
"(11) ACCESS TO RENEWABLE ENERGY FACILITIES.—
"(1) IN GENERAL.—Subject to paragraph (2), the Secretary may allow new right-of-ways within the Monument to provide reasonable vehicular access to renewable energy project sites outside the boundaries of the Monument.
"(2) RESTRICTIONS.—To the maximum extent practicable, the Secretary shall design and site the right-of-ways described in paragraph (1) to—
"(i) provide access for energy development and power generation.
"(12) SEC. 1405. ACQUISITION OF LAND.
"(a) IN GENERAL.—The Secretary may acquire for inclusion in the Monument any land or interests in land within the boundary of the Monument owned by the State, units of local government, Indian tribes, or private individuals only by—
"(1) donation;
"(2) exchange with a willing party; or
"(3) purchase from a willing seller for fair market value.
"(b) USE EASEMENTS.—To the maximum extent practicable and only with the approval of the landowner, the Secretary may use permanent conservation easements to acquire an interest in land in the Monument rather than acquiring fee simple title to the land.
"(c) INCORPORATION OF ACQUIRED LAND AND INTERESTS IN LAND.—Any land or interest in land within the boundaries of the Monument that is acquired by the United States after the date of enactment of this title shall be added to and administered as part of the Monument.
"(d) DONATED AND ACQUIRED LAND.—
"(1) IN GENERAL.—All land within the boundary of the Monument donated to the United States or acquired using amounts from the land and water conservation fund established under section 2 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460i–5) before, on, or after the date of enactment of this title shall—
"(A) is withdrawn from mineral entry; and
"(B) shall be managed in accordance with section 1904; and
"(c) shall be managed consistent with the purposes of the Monument described in section 1402(b).
"(2) EFFECT ON MONUMENT.—Land within the boundary of the Monument that is contiguous to land donated to the United States or acquired using amounts from the land and water conservation fund established under section 2 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460i–5) shall be managed in a manner consistent with conservation purposes, subject to applicable law.
"(3) APPLICABILITY.—
"(a) IN GENERAL.—The Secretary shall establish an advisory committee for the Monument, the purpose of which is to advise the Secretary with respect to the management plan and implementation of the management plan required by section 1403(g).
"(b) MEMBERSHIP.—To the extent practicable, the advisory committee shall include the following members, to be appointed by the Secretary:
"(1) A representative with expertise in natural science and research selected from a regional university or research institute.
"(2) A representative of the Department of Defense.
"(3) A representative of the California Natural Resources Agency.
"(4) A representative of each of San Bernadino and Riverside Counties, California.
"(5) A representative of each of the cities of Desert Hot Springs and Yucca Valley, California.
"(7) A representative of the Friends of Big Morongo Preserve.
"(8) A representative of the Wildlands Conservancy.
"(9) A representative of the Coachella Valley Mountains Conservancy.
"(11) A representative of the Morongo Basin Community Services District.
"(12) A representative from each of the following recreational activities:
"(A) Off-highway vehicles.
"(B) Hunting.
"(C) Rockhounding.
"(D) TERMS.—
"(1) IN GENERAL.—In appointing members under paragraphs (1) through (12) of subsection (b), the Secretary shall appoint 1 primary member and 1 alternate member that meet the qualifications described in each of those paragraphs.
"(2) VACANCY.—
"(A) PRIMARY MEMBER.—A vacancy in the appointment committee with respect to a primary member shall be filled by the applicable alternate member.
"(B) ALTERNATE MEMBER.—The Secretary shall appoint a new alternate member in the event of a vacancy with respect to an alternate member of the advisory committee.
"(3) TERMINATION.—(A) In general.—The term of all members of the advisory committee shall terminate on the termination of the advisory committee, as provided in subsection (g).

(B) NEW ADVISORY COMMITTEE.—At the discretion of the Secretary, the Secretary may establish a new advisory committee on the terms and conditions required under subsection (g) to provide ongoing recommendations on the management of the Monument.

(d) QUORUM.—A quorum of the advisory committee shall consist of a majority of the primary members.

(e) CHAIRPERSON AND PROCEDURES.—(1) IN GENERAL.—The advisory committee shall select a chairperson and vice chairperson from among the primary members of the advisory committee.

(2) DUTIES.—The chairperson and vice chairperson selected under paragraph (1) shall establish any rules and procedures for the advisory committee that the chairperson and vice-chairperson determine to be necessary or desirable.

(f) SERVICE WITHOUT COMPENSATION.—Members of the advisory committee shall serve without pay.

(g) TERMINATION.—The advisory committee shall cease to exist on—

(1) the date on which the management activity or use outside the boundary of the wilderness area shall not preclude or restrict the activity or use described in subsection (b) that is not designated as a wilderness area or wilderness addition by section 1501 is no longer subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782), any portion of a wilderness study area described in subsection (b) that is not designated as a wilderness area or wilderness addition by section 1501 is no longer subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782), and the area has received a right-of-way use application under any other provision of law.

(2) FORCE OF LAW.—A map and legal description of any area referred to in paragraph (1) shall be filed and made available for public inspection in the appropriate office of the Secretary.

(3) PUBLIC AVAILABILITY.—Each map and legal description filed under paragraph (1) shall be filed and made available for public-inspection in the appropriate office of the Secretary.

"(B) Chairperson.—The chairperson selected under paragraph (1) shall be the chairperson of the advisory committee.

(2) Effect.—Nothing in this title requires any authority of the Secretary of Defense to conduct any military operations at desert installations, facilities, and ranges of the State that are administered under section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782).

(c) ADMINISTRATION.—Subject to valid existing rights, the land designated as wilderness or as a wilderness addition by section 1501 shall be administered by the Secretary in accordance with this Act and the Wilderness Act (16 U.S.C. 1131 et seq.) and sections 601 and 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1781, 1782), except that no wilderness area designated by section 1501 shall be administered by the Secretary in accordance with this Act and the Wilderness Act (16 U.S.C. 1131 et seq.) and sections 601 and 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1781, 1782) that any reference in that Act to the effective date shall be considered to be a reference to the date of enactment of this title.

"(d) CADDY MOUNTAINS WILDERNESS Study Area; and

(2) the Great Falls Basin Wilderness Study Area; and

(3) the Soda Mountains Wilderness Study Area.

(c) RELEASE.—Any portion of a wilderness study area described in subsection (b) that is not designated as a wilderness area or wilderness addition by section 1501 that is the subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782), any portion of a wilderness study area described in subsection (b) that is not designated as a wilderness area or wilderness addition by section 1501 is no longer subject to the provisions of section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782), any portion of a wilderness study area described in subsection (b) that is not designated as a wilderness area or wilderness addition by section 1501 is no longer subject to the provisions of section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782).

"(e) CHAIRPERSON.—The chairperson selected under paragraph (1) shall be the chairperson of the advisory committee.

(2) Effect.—Nothing in this title requires any authority of the Secretary of Defense to conduct any military operations at desert installations, facilities, and ranges of the State that are administered under section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782).

(c) ADMINISTRATION.—Subject to valid existing rights, the land designated as wilderness or as a wilderness addition by section 1501 shall be administered by the Secretary in accordance with this Act and the Wilderness Act (16 U.S.C. 1131 et seq.) and sections 601 and 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1781, 1782), except that no wilderness area designated by section 1501 shall be administered by the Secretary in accordance with this Act and the Wilderness Act (16 U.S.C. 1131 et seq.) and sections 601 and 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1781, 1782) that any reference in that Act to the effective date shall be considered to be a reference to the date of enactment of this title.

"(d) CADDY MOUNTAINS WILDERNESS Study Area; and

(2) the Great Falls Basin Wilderness Study Area; and

(3) the Soda Mountains Wilderness Study Area.

(c) RELEASE.—Any portion of a wilderness study area described in subsection (b) that is not designated as a wilderness area or wilderness addition by section 1501 that is the subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782), any portion of a wilderness study area described in subsection (b) that is not designated as a wilderness area or wilderness addition by section 1501 is no longer subject to the provisions of section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782), any portion of a wilderness study area described in subsection (b) that is not designated as a wilderness area or wilderness addition by section 1501 is no longer subject to the provisions of section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782).

"(e) CHAIRPERSON.—The chairperson selected under paragraph (1) shall be the chairperson of the advisory committee.

(2) Effect.—Nothing in this title requires any authority of the Secretary of Defense to conduct any military operations at desert installations, facilities, and ranges of the State that are administered under section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782).

(c) ADMINISTRATION.—Subject to valid existing rights, the land designated as wilderness or as a wilderness addition by section 1501 shall be administered by the Secretary in accordance with this Act and the Wilderness Act (16 U.S.C. 1131 et seq.) and sections 601 and 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1781, 1782), except that no wilderness area designated by section 1501 shall be administered by the Secretary in accordance with this Act and the Wilderness Act (16 U.S.C. 1131 et seq.) and sections 601 and 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1781, 1782) that any reference in that Act to the effective date shall be considered to be a reference to the date of enactment of this title.

"(d) CADDY MOUNTAINS WILDERNESS Study Area; and

(2) the Great Falls Basin Wilderness Study Area; and

(3) the Soda Mountains Wilderness Study Area.

(c) RELEASE.—Any portion of a wilderness study area described in subsection (b) that is not designated as a wilderness area or wilderness addition by section 1501 that is the subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782), any portion of a wilderness study area described in subsection (b) that is not designated as a wilderness area or wilderness addition by section 1501 is no longer subject to the provisions of section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782), any portion of a wilderness study area described in subsection (b) that is not designated as a wilderness area or wilderness addition by section 1501 is no longer subject to the provisions of section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782).

"(e) CHAIRPERSON.—The chairperson selected under paragraph (1) shall be the chairperson of the advisory committee.

(2) Effect.—Nothing in this title requires any authority of the Secretary of Defense to conduct any military operations at desert installations, facilities, and ranges of the State that are administered under section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782).

(c) ADMINISTRATION.—Subject to valid existing rights, the land designated as wilderness or as a wilderness addition by section 1501 shall be administered by the Secretary in accordance with this Act and the Wilderness Act (16 U.S.C. 1131 et seq.) and sections 601 and 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1781, 1782), except that no wilderness area designated by section 1501 shall be administered by the Secretary in accordance with this Act and the Wilderness Act (16 U.S.C. 1131 et seq.) and sections 601 and 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1781, 1782) that any reference in that Act to the effective date shall be considered to be a reference to the date of enactment of this title.

"(d) CADDY MOUNTAINS WILDERNESS Study Area; and

(2) the Great Falls Basin Wilderness Study Area; and

(3) the Soda Mountains Wilderness Study Area.

(c) RELEASE.—Any portion of a wilderness study area described in subsection (b) that is not designated as a wilderness area or wilderness addition by section 1501 that is the subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782), any portion of a wilderness study area described in subsection (b) that is not designated as a wilderness area or wilderness addition by section 1501 is no longer subject to the provisions of section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782), any portion of a wilderness study area described in subsection (b) that is not designated as a wilderness area or wilderness addition by section 1501 is no longer subject to the provisions of section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782).

“(4) SECRETARY.—The term ‘Secretary’ means the Secretary of the Interior.

“SEC. 1602. ESTABLISHMENT OF THE VINGRARE MINERAL SITE.

“(a) ESTABLISHMENT.—There is established the Vingra Mountain Special Mineral Site in the State, to be managed by the El Centro Office of Land Management; and

“(b) PURPOSE.—The purpose of the Management Area is to conserve, protect, and enhance—

“(1) the plant and wildlife values of the Management Area; and

“(2) the outstanding and nationally significant ecological, geological, scientific, recreational, historical, cultural, historic, and other resources of the Management Area.

“(c) BOUNDARIES.—The Management Area shall consist of the public land in Imperial County, California, comprising approximately 74,714 acres, as generally depicted on the map.

“(d) MAP; LEGAL DESCRIPTION.—

“(1) IN GENERAL.—As soon as practicable, but not later than 3 years after the date of enactment of this title, the Secretary shall submit a map and legal description of the Management Area to—

“(A) the Committee on Natural Resources of the Senate; and

“(B) the Committee on Energy and Natural Resources of the Senate.

“(2) EFFECT.—The map and legal description submitted under paragraph (1) shall have the same force and effect as if included in this title, except that the Secretary may correct any errors in the map and legal description.

“(e) AVAILABILITY.—Copies of the map submitted under paragraph (1) shall be on file and available for public inspection in—

“(A) the Office of the Director of the Bureau of Land Management; and

“(B) the appropriate office of the Bureau of Land Management in the State.

“SEC. 1603. MANAGEMENT.

“(a) IN GENERAL.—The Secretary shall allow hiking, camping, hunting, and sightseeing and the use of motorized vehicles, motorcycles, bicycles, and horses on designated routes in the Management Area in a manner that—

“(1) is consistent with the purpose of the Management Area described in section 1602(b);

“(2) ensures public health and safety; and

“(3) is consistent with applicable law.

“(b) OFF-HIGHWAY VEHICLE USE.—

“(1) IN GENERAL.—Subject to paragraphs (2) and (3) and all other applicable laws, the use of off-highway vehicles shall be permitted on routes in the Management Area generally depicted on the map.

“(2) CLOSURE.—The Secretary may temporarily close or permanently reroute a portion of a route described in paragraph (1)—

“(A) to prevent, or allow for restoration of, resource damage;

“(B) to protect tribal cultural resources, including the resources identified in the tribal cultural resources management plan developed under section 106(c);

“(C) to address public safety concerns; or

“(D) as otherwise required by law.

“(3) DESIGNATION OF ADDITIONAL ROUTES.—During the 5-year period beginning on the date of enactment of this title, the Secretary—

“(A) shall accept petitions from the public regarding additional routes for off-highway vehicle use; and

“(B) may designate additional routes that the Secretary determines—

“(1) would provide significant or unique recreational opportunities; and

“(ii) are consistent with the purposes of the Management Area.

“(c) DEFINITIONS.—Subject to valid existing rights, all Federal land within the Management Area is withdrawn from—

“(1) all forms of entry, appropriation, or disposal under all laws; and

“(2) location, entry, and patent under the mining laws; and

“(3) right-of-way, leasing, or disposition under all laws.

“(A) minerals; or

“(B) solar, wind, and geothermal energy.

“(d) NO BUFFERS.—The establishment of the Management Area to—

“(1) create a protective perimeter or buffer zone around the Management Area; or

“(2) provide or designate activities outside the Management Area that are permitted under other applicable laws, even if the uses or activities are prohibited within the Management Area.

“(e) NOTICE OF AVAILABLE ROUTES.—The Secretary shall ensure that visitors to the Management Area have adequate notice relating to the availability of designated routes in the Management Area through—

“(1) the placement of appropriate signage along the designated routes;

“(2) the display of color-coded maps, safety education materials, and other information that the Secretary determines to be appropriate; and

“(3) the publication of a map depicting the Management Area and a list of designated routes.

“(f) PROTECTION OF TRIBAL CULTURAL RESOURCES.—The Secretary, in consultation with Indian tribes and other interested parties, shall develop a program to provide opportunities for monitoring and stewardship of the Management Area to minimize environmental impacts and prevent resource damage from recreational use, including volunteer assistance with—

“(1) route signage;

“(2) restoration of closed routes;

“(3) protection of Management Area resources; and

“(4) recreation education.

“(g) PROTECTION OF TRIBAL CULTURAL RESOURCES.—Not later than 2 years after the date of enactment of this title, the Secretary, in consultation with Indian tribes, shall—

“(1) prepare and complete a tribal cultural resources survey of the Management Area; and

“(2) consult with the Quechan Indian Nation and other Indian tribes demonstrating ancestral, cultural, or other ties to the resources within the Management Area on the development and implementation of the tribal cultural resources survey under paragraph (1).

“SEC. 1604. POTENTIAL WILDERNESS.

“(a) PROTECTION OF WILDERNESS CHARACTER.—

“(1) IN GENERAL.—The Secretary shall manage the Federal land in the Management Area described in paragraph (2) in a manner that preserves the character of the land for the eventual inclusion of the land in the National Wilderness Preservation System.

“(2) DESCRIPTION OF LAND.—

“(A) MILITARY USES.—The Secretary shall—

“(1) minimize the environmental impacts of military activities on the Federal land that are incompatible with the Wilderness Act (16 U.S.C. 1131 et seq.), and

“(2) preclude uses or activities outside the Management Area that are permitted under other applicable laws, even if the uses or activities are prohibited within the Management Area.

“(B) may designate additional routes that temporarily close or permanently reroute a portion of a route described in paragraph (1) that—

“(i) would provide significant or unique recreational opportunities; and

“(ii) are consistent with the purposes of the Management Area.

“(c) WITHDRAWAL.—Subject to valid existing rights, all Federal land described in paragraph (2) shall be designated as wilderness and as a component of the National Wilderness Preservation System on the date on which the Secretary, in consultation with the Secretary of Defense, publishes a notice in the Federal Register that all activities on the Federal land that are incompatible with the Wilderness Act (16 U.S.C. 1131 et seq.) have terminated.

“(d) BOUNDARY.—On designation of the federal land under paragraph (2), the Secretary shall—

“(1) the land described in paragraph (2) shall be designated as the ‘Milpitas Wash Wilderness’;

“(ii) the land described in paragraph (2) shall be designated as the ‘Mipitas Wash Wilderness’;

“(iii) the land described in paragraph (2) shall be designated as the ‘Buzard Peak Wilderness’; and

“(iv) the land described in paragraph (2) shall be designated as the ‘Cahuilla Wilderness’.

“(e) ADMINISTRATION OF WILDERNESS.—Subject to valid existing rights, the land designated as wilderness or as a wilderness addition by this title shall be administered by the Secretary in accordance with this Act and the Wilderness Act (16 U.S.C. 1131 et seq.).

“TITLE XVII—NATIONAL PARK SYSTEM ADDITIONS

“SEC. 1701. DEATH VALLEY NATIONAL PARK BOUNDARY REVISION.

“(a) IN GENERAL.—The boundary of Death Valley National Park is adjusted to include—

“(1) the approximately 33,041 acres of Bureau of Land Management land abutting the southern end of the Death Valley National Park; and

“(2) the approximately 6,378 acres of Bureau of Land Management land in Inyo County, California, located in the northeast area.
of Death Valley National Park that is within, and surrounded by, land under the jurisdiction of the Director of the National Park Service, as depicted on the map entitled ‘Proposed Crater Mine Area Addition to Death Valley National Park’, numbered 143/100,079, and dated June 2009; and

(3)(A) on transfer of title to the private land described in subsection (a), the Secretary shall administer any land added to the Joshua Tree National Park under subsection (a) and the additional land described in paragraph (2)—

(A) as part of Joshua Tree National Park; and

(B) in accordance with applicable laws (including regulations).

(2) not later than 180 days after the date of enactment of this title, develop a memorandum of understanding with Inyo County, California, permitting ongoing access and use to existing gravel pits along Saline Valley Road within Death Valley National Park for road maintenance and repairs in accordance with applicable laws (including regulations); and

(b) Availability of Map.—The maps described in paragraphs (1), (2), and (3) of subsection (a) shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(c) Administration.—The Secretary of the Interior (referred to in this section as the ‘Secretary’) shall—

(1) administer any land added to Death Valley National Park under subsection (a)—

(A) as part of Death Valley National Park; and

(B) in accordance with applicable laws (including regulations); and

(2) not later than 180 days after the date of enactment of this title.

SEC. 1703. JOSHUA TREE NATIONAL PARK BOUNDARY REVISION.

(a) In General.—The boundary of the Joshua Tree National Park is adjusted to include—

(1) the 2,679 acres of land added to Joshua Tree National Park by the Secretary of the Interior, the Secretary of the Navy, and the Secretary of Defense, to be used for training (including military range management and exercise control activities).

(2) JOHNSON VALLEY OFF-HIGHWAY VEHICLE RECREATION AREA.—Certain Bureau of Land Management land in the Conservation Area, comprising approximately 22,400 acres, as generally depicted on the map entitled ‘Johnson Valley Off-Highway Vehicle Recreation Area’ and dated July 15, 2009, which shall be known as the ‘Johnson Valley Off-Highway Vehicle Recreation Area’.

(3) STODDARD VALLEY OFF-HIGHWAY VEHICLE RECREATION AREA.—Certain Bureau of Land Management land in the Conservation Area, comprising approximately 62,080 acres, as generally depicted on the map entitled ‘Stoddard Valley Off-Highway Vehicle Recreation Area’ and dated July 15, 2009, which shall be known as the ‘Stoddard Valley Off-Highway Vehicle Recreation Area’.

(b) Purpose.—The purpose of the off-highway vehicle recreation areas designated under subsection (a) is to preserve and enhance the recreational opportunities within the Conservation Area (including opportunities for off-highway vehicle recreation), while conserving the wildlife and other natural resource values of the Conservation Area.

(c) Maps and Descriptions.—

(1) Preparation and Submission.—As soon as practicable after the date of enactment of this title, the Secretary shall file a map and legal description of each off-highway vehicle recreation area designated by subsection (a) with—

(A) the Committee on Natural Resources of the House of Representatives; and

(B) the Committee on Energy and Natural Resources of the Senate.

(2) Legal Effect.—The map and legal descriptions of the off-highway vehicle recreation areas filed under paragraph (1) shall have the same force and effect as if included in this title, except that the Secretary may correct errors in the map and legal descriptions.

(d) Public Availability.—Each map and legal description filed under paragraph (1) shall be filed and made available for public

SEC. 1705. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title.

TITLE XVIII.—OFF-HIGHWAY VEHICLE RECREATION AREAS

SEC. 1801. DESIGNATION OF OFF-HIGHWAY VEHICL E RECREATION AREAS.

(a) Designation.—In accordance with the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and resource management plans developed under this title and the Conservation Area (including opportunities for off-highway vehicle recreation), while conserving the wildlife and other natural resource values of the Conservation Area.

(b) Availability of Maps.—The maps described in subsection (a) shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(c) Administration.—The Secretary shall administer any land added to the Mojave National Preserve by the Secretary of the Interior, the Secretary of the Navy, and the Secretary of Defense, to be used for training (including military range management and exercise control activities).

SEC. 1702. MOJAVE NATIONAL PRESERVE.

(a) In General.—The boundary of the Mojave National Preserve is adjusted to include—

(1) the 29,221 acres of Bureau of Land Management land that is surrounded by the Mojave National Preserve to the northwest, west, southwest, south, and southeast by and the Nevada State line on the northeast boundary, as depicted on the map entitled ‘Proposed Castle Mountain Addition to the Mojave National Preserve’, numbered 170/100,075, and dated August 2009; and

(2) a Bureau of Land Management land in Baker, California, as depicted on the map entitled ‘Mojave National Preserve—Proposed Boundary Addition’, numbered 170/100,199, and dated August 2009.

(b) Availability of Maps.—The maps described in subsection (a) shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(c) Administration.—The Secretary shall administer any land added to the Mojave National Preserve by the Secretary of the Interior, the Secretary of the Navy, and the Secretary of Defense, to be used for training (including military range management and exercise control activities).

(1) In General.—The land referred to in clause (i) is the land that—

(a) is described in—

(ii) in accordance with applicable laws (including regulations);

(iii) incorporated in off-highway vehicle recreation areas designated by subsection (a) is to preserve and enhance the recreational opportunities within the Conservation Area (including opportunities for off-highway vehicle recreation), while conserving the wildlife and other natural resource values of the Conservation Area.

(c) Maps and Descriptions.—

(1) Preparation and Submission.—As soon as practicable after the date of enactment of this title, the Secretary shall file a map and legal description of each off-highway vehicle recreation area designated by subsection (a) with—

(2) Purpose.—The purpose of the off-highway vehicle recreation areas designated under subsection (a) is to preserve and enhance the recreational opportunities within the Conservation Area (including opportunities for off-highway vehicle recreation), while conserving the wildlife and other natural resource values of the Conservation Area.

(3) Public Availability.—Each map and legal description filed under paragraph (1) shall be filed and made available for public
(d) Use of the Land.—

(1) Recreational Activities.—

(A) In general.—The Secretary shall continue to maintain, and enhance the recreational uses of the off-highway vehicle recreation areas designated by subsection (a), including off-highway recreation, hiking, camping, mountain biking, sightseeing, rockhounding, and horseback riding, as long as the recreational use is consistent with this section and any other applicable law.

(B) Off-highway vehicle and off-highway recreation.—To the extent consistent with applicable Federal law (including regulations), the Secretary shall authorize the off-highway vehicle use, racing, competitive events, rock crawling, training, and other off-highway recreation.

(C) Wildlife Guzzlers.—Wildlife guzzlers shall be allowed in the off-highway vehicle recreation areas designated by subsection (a) in accordance with applicable Bureau of Land Management guidelines.

(2) Prohibited Uses.—Residential and commercial development (including development of transmission line rights-of-way and related telecommunication facilities) shall be prohibited in the off-highway vehicle recreation areas designated by subsection (a) if the Secretary determines that the development is incompatible with the purpose described in subsection (b).

(e) Administration.—

(A) general.—The Secretary shall administer the off-highway vehicle recreation areas designated by subsection (a) in accordance with—

(i) this title;

(ii) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and

(iii) any other applicable laws (including regulations).

(B) Management Plan.—

(A) In general.—The Secretary shall complete a study to identify Bureau of Land Management land adjacent to the off-highway vehicle recreation areas designated by subsection (a) that is suitable for addition to the off-highway vehicle recreation areas.

(B) Study.—

(i) In general.—As soon as practicable, but not later than 2 years after the date of enactment of this title, the Secretary shall conduct a study to identify Bureau of Land Management land adjacent to the off-highway vehicle recreation areas designated by subsection (a) that is suitable for addition to the off-highway vehicle recreation areas.

(ii) Study.—In preparing the study under paragraph (1), the Secretary shall—

(1) seek input from stakeholders, including—

(A) the State; and

(B) responsible State and local agencies;

(ii) San Bernardino County, California;

(iii) public;

(iv) public user groups; and

(v) conservation organizations;

(2) explore the feasibility of expanding the southern boundary of the off-highway vehicle recreation area described in subsection (a)(4) to include previously disturbed land; and

(C) identify and divide from consideration any land that—

(1) is managed for conservation purposes; or

(2) may be necessary for renewable energy development; or

(3) are off-highway vehicle recreation areas under section (a), including off-highway recreation within the Conservation Area as of the date of enactment of this title.

(3) Application of Law.—The Secretary shall consider the information and recommendations of the study under paragraph (1) to determine the impacts of expanding off-highway vehicle recreation areas designated by subsection (a) on the Conservation Area, in accordance with—

(A) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(B) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); and

(C) any other applicable law.

(f) Submission to Congress.—On completion of the study under paragraph (1), the Secretary shall submit the study to—

(A) the Committee on Natural Resources of the House of Representatives; and

(B) the Committee on Energy and Natural Resources of the Senate.

(5) Authorization for Expansion.—

(A) In general.—On completion of the study under paragraph (1), the Secretary shall submit the study to—

(A) the Committee on Natural Resources of the Senate;

(B) the Committee on Energy and Natural Resources of the Senate; and

(C) any other applicable law.

(i) Submissions.—In preparing the study under paragraph (1), the Secretary shall—

(1) not later than 1 year after the date of enactment of this title, submit the study to the committees described in paragraphs (A) and (B) of this section.

(ii) Authorization.—The process developed under paragraph (1) shall—

(A) apply to all State land within the Conservation Area that is under the jurisdiction of the Commission; and

(B) prioritize the elimination of State land from units of the National Park System, national monuments, and wilderness areas.

(iii) Coordination.—The Commission shall coordinate with the Secretaries of the Interior and Agriculture to identify lands within the Conservation Area that are suitable for addition to the Conservation Area.

(6) Administration.—

(A) In general.—The Secretary shall—

(i) submit to the Commission a consolidated inventory of the lands identified for exchange under this section;

(ii) and

(iii) submit to the Commission a consolidated list of the proposed land exchanges under this section.

(II) the land described in section 707(b)(2); and

(B) Management.—Any land within the expanded areas under subparagraph (A) shall be managed in accordance with this section.

Title XIX—Miscellaneous

Sec. 1901. State Land Transfers and Exchanges.

(1) Transfer of Land to Anza-Borrego Desert State Park.

(II) the land described in that paragraph to the

(i) the inventory of land under clause (i); and

(ii) any proposed land exchange under this section that involves more than 5,000 acres of Federal land that—

(iii) in preparing the inventory of Federal land suitable for exchange under clause (i), the Secretary shall use best efforts to give priority to—

(1) land that has the potential for commercial development, including renewable energy development, such as wind and solar energy development;

(II) the land described in section 707(b)(2); and

(III) land located outside the boundaries of the Conservation Area (including closed military base land and land identified as surplus to the Administrative Needs of the General Services Administration) to avoid, to the maximum extent feasible, conflicts with conservation of desert land.

(III) disposition under all laws relating to mineral and geothermal leasing.

(4) Reversal.—If the State ceases to manage the land transferred under paragraph (3) as part of the Conservation Area, the Secretary of the Interior shall—

(1) in consultation and cooperation with the California Desert Land Commission (referred to in this section as the ‘Commission’), develop a process to exchange isolated parcels of State land within the Conservation Area for Federal land located in the Conservation Area or other Federal land in the State that—

(A) is consistent with the plans described in paragraph (2); and

(B) ensures that the conservation goals and objectives identified in those plans are not adversely impacted.

(2) Description of Plans.—The plans referred to in paragraph (1) are—

(A) the California Desert Renewable Energy Conservation Plan;

(B) the California Desert Conservation Area Plan;

(C) the Northern and Eastern Colorado Desert Plan; and

(D) any other applicable plans.

(3) Requirements.—The process developed under paragraph (1) shall—

(A) apply to all State land within the Conservation Area that is under the jurisdiction of the Commission; and

(B) prioritize the elimination of State land from units of the National Park System, national monuments, and wilderness areas.

(2) Transfer of Land to Anza-Borrego Desert State Park.

(II) the land described in that paragraph to the

(i) the inventory of land under clause (i); and

(ii) any proposed land exchange under this section that involves more than 5,000 acres of Federal land that—

(iii) in preparing the inventory of Federal land suitable for exchange under clause (i), the Secretary shall use best efforts to give priority to—

(1) land that has the potential for commercial development, including renewable energy development, such as wind and solar energy development;

(II) the land described in section 707(b)(2); and

(III) land located outside the boundaries of the Conservation Area (including closed military base land and land identified as surplus to the Administrative Needs of the General Services Administration) to avoid, to the maximum extent feasible, conflicts with conservation of desert land.

(III) disposition under all laws relating to mineral and geothermal leasing.

(4) Reversal.—If the State ceases to manage the land transferred under paragraph (3) as part of the Conservation Area, the Secretary of the Interior shall—

(1) in consultation and cooperation with the California Desert Land Commission (referred to in this section as the ‘Commission’), develop a process to exchange isolated parcels of State land within the Conservation Area for Federal land located in the Conservation Area or other Federal land in the State that—

(A) is consistent with the plans described in paragraph (2); and

(B) ensures that the conservation goals and objectives identified in those plans are not adversely impacted.

(2) Description of Plans.—The plans referred to in paragraph (1) are—

(A) the California Desert Renewable Energy Conservation Plan;

(B) the California Desert Conservation Area Plan;

(C) the Northern and Eastern Colorado Desert Plan; and

(D) any other applicable plans.

(3) Requirements.—The process developed under paragraph (1) shall—

(A) apply to all State land within the Conservation Area that is under the jurisdiction of the Commission; and

(B) prioritize the elimination of State land from units of the National Park System, national monuments, and wilderness areas.

(2) Transfer of Land to Anza-Borrego Desert State Park.

(II) the land described in that paragraph to the

(i) the inventory of land under clause (i); and

(ii) any proposed land exchange under this section that involves more than 5,000 acres of Federal land that—

(iii) in preparing the inventory of Federal land suitable for exchange under clause (i), the Secretary shall use best efforts to give priority to—

(1) land that has the potential for commercial development, including renewable energy development, such as wind and solar energy development;

(II) the land described in section 707(b)(2); and

(III) land located outside the boundaries of the Conservation Area (including closed military base land and land identified as surplus to the Administrative Needs of the General Services Administration) to avoid, to the maximum extent feasible, conflicts with conservation of desert land.

(iii) disposition under all laws relating to mineral and geothermal leasing.

(iv) Reversal.—If the State ceases to manage the land transferred under paragraph (3) as part of the Conservation Area, the Secretary of the Interior shall—

(1) in consultation and cooperation with the California Desert Land Commission (referred to in this section as the ‘Commission’), develop a process to exchange isolated parcels of State land within the Conservation Area for Federal land located in the Conservation Area or other Federal land in the State that—

(A) is consistent with the plans described in paragraph (2); and

(B) ensures that the conservation goals and objectives identified in those plans are not adversely impacted.

(2) Description of Plans.—The plans referred to in paragraph (1) are—

(A) the California Desert Renewable Energy Conservation Plan;

(B) the California Desert Conservation Area Plan;
“(v) the land exchanges are completed by the date that is 10 years after the date of enactment of this title; and

(E) provide for the submission of annual reports to Congress that—

(i) describe any progress or impediments to accomplishing the goal described in subparagraph (D)(v); and

(ii) any recommendations for legislation to accomplish the goal.

(4) VALUATION.—Notwithstanding paragraphs (2) through (5) of section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(d)), if within 180 days after the submission of an appraisal under subsection (d)(1) of that section, the Secretary and the Commission cannot agree to accept the findings of the appraisal—

(A) the Secretary and the Commission shall mutually agree to employ a process of arbitration, or some other process to determine the values of the land involved in the exchange;

(B) the appraisal shall be submitted to an arbiter for exchange or sale, which list of arbitrators submitted to the Secretary by the American Arbitration Association for arbitration; and

(C) within the decision of the arbiter under subparagraph (B) shall be nondisputable, the decision may be used by the Secretary and the Commission as a valid appraisal for—

(i) a period of 2 years; and

(ii) on mutual agreement of the Secretary and the Commission, an additional 2-year period; or

(D) on mutual agreement of the Secretary and the Commission, the valuation process shall be suspended or modified.

(5) TREATMENT OF LAND USE RESTRICTIONS AND PENDING APPLICATIONS.—For the pur- poses of this title—

(A) the Secretary shall not exclude parcels from exchanges because the parcels are subject to designations or pending land use applications, including applications for the development of renewable energy;

(B) all Federal land and State land proposed for exchange or sale shall be valued—

(i) according to fair market value;

(ii) in accordance with section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(d)); and

(iii) without regard to—

(I) pending land use applications;

(II) renewable energy designations; or

(III) any land use restrictions on adjacent land.

(B) cooperation agreements.—The Secretary may—

(A) enter into such joint agreements with the General Services Administration and the Commission as the Secretary determines to be necessary to facilitate land exchanges, including agreements that establish accounting mechanisms—

(i) to be used for tracking the differential in dollar value of land conveyed in a series of transactions; and

(ii) that, notwithstanding part 2000 of title 43, Code of Federal Regulations (or successor regulations), may carry outstanding cumulative credit balances until the complete- tion of the land exchange process developed under paragraph (1); and

(B) to the extent that the agreement does not conflict with this section, continue using the agreement entitled ‘Memorandum of Agreement Between California State Lands Commission, General Services Administra- tion, and the Department of the Interior Re- garding the 처리 of the California Desert Protection Act’, which became effective on November 7, 1995.

(7) EXISTING LAW.—Except as otherwise provided in this section, nothing in this section supersedes or limits section 707.

(8) STATE LAND LEASES.—

(A) In General.—The Secretary shall manage any State land described in subparagraph (B) in accordance with the terms and conditions of the applicable State lease agreement for the lease, subject to applicable laws (including regulations).

(B) DESCRIPTION OF STATE LAND.—The State land referred to in subparagraph (A) is any State land within the Conservation Area that is subject to a lease or permit on the date of enactment that is transferred to the Federal Government.

(C) EXPIRATION OF LEASE.—On the expiration of a State lease referred to in subpara- graph (A), the Secretary shall provide lessees with the opportunity to seek Federal per- mits to continue the existing use of the State land without further action otherwise required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(D) APPLICABLE LAW.—Except as other- wise provided in this section, any State land transferred to Federal Government under this section shall be managed in accordance with all laws (including regulations) and rules applicable to the public land adjacent to the transferred State land.

(E) TWENTY-NINE PALMS MARINE CORP BASE.—

(1) IN GENERAL.—The Secretary and the Secretary of Defense, in consultation and in cooperation with the California State Lands Commission, shall develop a process to pur- chase or exchange parcels of State land with- in the area of expansion and land use restric- tions planned for the Twenty-nine Palms Marine Corp Base.

(2) REQUIREMENTS.—The process developed under paragraph (1) for exchanged parcels of State land shall provide the California State Lands Commission with consolidated land holdings sufficient to make the land viable for commercial or recreational uses, including renewable energy development, off-highway vehicle recreation, or State infrastruc- ture or resource needs.

(F) APPLICABLE LAW.—An exchange of land under this subsection shall be subject to the requirements of subsection (b).

(1) Holtville Airport, Imperial County.—

(A) In General.—On the submission of an application by Imperial County, California, the Secretary (acting through the Director of the Bureau of Land Management) shall, with regard to the land to be conveyed under this paragraph (1)—

(i) segregate the land; and

(ii) prohibit the appropriation of the land until—

(I) the date on which a notice of realty ac- tion terminates the application; or

(ii) the date on which a document of con- veyance is published; or

(2) Needles Solar Reserve, San Bernardo- no County.—

(A) In General.—The Secretary shall grant to the Commission a right of first re- fusals to exchange the State land described in paragraph (2) for Bureau of Land Manage- ment land identified for disposal.

(B) Land Management Plans.—If the Commission declines to exchange State land for Bureau of Land Management land identi- fied for disposal within the city limits of Needles, California, the City of Needles shall have a secondary right of refusal to acquire the land.

(9) SEC. 1902. MILITARY ACTIVITIES.

(a) In General.—Nothing in this Act—

(i) restricts or precludes Department of Defense motorized access by land or air—

(A) to respond to an emergency within a wilderness area designated by this Act; or

(B) to control access to the emergency site;

(ii) prevents nonmanned military training activities previously conducted on the areas designated by this title that are consistent with—

(A) the Wilderness Act (16 U.S.C. 1131 et seq.); and

(iii) any applicable laws (including regula- tions);

(iii) restricts or precludes low-level over- flights of military aircraft over the areas designated as wilderness, national monu- ments, special management areas, or recre- ation areas by this Act, including military overflights that can be seen or heard within the designated areas;

(iv) restricts or precludes flight testing and evaluation in the areas described in paragraph (3); or

(b) STUDY.—

(1) In General.—As soon as practicable, but not later than 2 years, after the date of enactment of this title, the Secretary shall complete a study regarding the impact of global climate change on the Conservation Area.

(2) Components.—The study under para- graph (1) shall—

(A) identify the species migrating, or likely to migrate, due to climate change;

(B) examine the local and potential impacts of climate change on—

(i) plants, insects, and animals;

(ii) soil;

(iii) air quality;

(iv) water quality and quantity; and

(v) species migration and survival;

(C) identify critical wildlife and species migration corridors recommended for preservation; and

(D) include recommendations for ensuring the biological connectivity of public land managed by the Secretary of Defense throughout the Conservation Area.

(2) RIGHTS-OF-WAY.—The Secretary shall consider the information and recommendations of the study under paragraph (1) to de- termine the individual and cumulative im- pacts of rights-of-way for projects in the Conservation Area, in accordance with—

(A) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(B) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); and

(C) any other applicable law.

(c) LAND MANAGEMENT PLANS.—The Sec- retary shall incorporate into all land man- agement plans applicable to the Conserva- tion Area the findings and recommendations of the study completed under subsection (b).
**SEC. 1904. PROHIBITED USES OF DONATED AND ACQUIRED LAND.**

(a) Definitions.—In this section—


(b) Donated land.—The term 'donated land' means any private land donated to the United States for conservation purposes in the Conservation Area.

(c) Use.—The term 'use' means any activity, including—

(i) recreation;

(ii) livestock grazing;

(iii) mineral entry;

(iv) high-speed vehicle use, except on—

(A) designated routes; and

(B) high-speed vehicle areas designated by law; and

(B) administratively-designated open areas; and

G. any other activities that would create impacts contrary to the conservation purposes for which the land was donated or acquired.

(c) EXCEPTIONS.—

(1) Authorization by Secretary. Subject to paragraph (2), the Secretary may authorize limited exceptions to prohibited uses of donated land or acquired land in the Conservation Area if—

(A) an applicant has submitted a right-of-way application to the Bureau of Land Management proposing renewable energy development on the donated land or acquired land on or before December 1, 2009; or

(B) in the context of an analysis under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), including full public participation in the analysis, the Secretary determined that—

(i) the use of the donated land or acquired land is in the public interest;

(ii) the impacts of the use are fully and appropriately mitigated; and

(iii) the land was donated or acquired on or before December 1, 2009.

(2) Conditions.—

(A) Generally. If the Secretary grants an exception to the prohibition under paragraph (1), the Secretary shall require the permittee to acquire and donate comparable private land to the United States to mitigate the use.

(B) Approval.—The private land to be donated under subparagraph (A) shall be approved by the Secretary after consultation, to the maximum extent practicable, with the donor of the private land proposed for non-conservation use.

(C) Conforming Amendments.—Nothing in this section affects permitted or prohibited uses of donated land or acquired land in the Conservation Area established in any case without, deed restrictions, memoranda of understanding, or other agreements in existence on the date of enactment of this title.

"SEC. 1905. TRIBAL USES AND INTERESTS.

(a) ACCESS.—The Secretary shall ensure access to areas under this Act by members of Indian tribes for traditional cultural and religious purposes, consistent with applicable law, including Public Law 95–341 (commonly known as the "American Indian Religious Freedom Act") (42 U.S.C. 1996).

(b) TEMPORARY CLOSURE.—

(1) In general.—

(A) The Secretary may, in accordance with applicable law, including Public Law 95–341 (commonly known as the "American Indian Religious Freedom Act") (42 U.S.C. 1996), and subject to paragraph (2), on request of an Indian tribe or Indian religious community, shall temporarily close to general public use any portion of an area designated as a national monument, special management area, wild and scenic river, or National Park System unit under this Act (referred to in this subsection as a "designated area") to protect the privacy of traditional cultural and religious activities in the designated area by members of the Indian tribe or Indian religious community.

(2) Limitation.—In closing a portion of a designated area under paragraph (1), the Secretary shall limit the closure to the smallest practicable area for the minimum period necessary for the traditional cultural and religious activities.

(c) TRIBAL CULTURAL RESOURCES MANAGEMENT PLAN.

(1) In general.—Not later than 2 years after the date of enactment of this title, the Secretary of the Interior shall develop and implement a tribal cultural resources management plan under paragraph (1) with—

(A) the three tribes, including—

(i) the Chemehuevi Indian Tribe;

(ii) the Hualapai Tribal Nation;

(iii) the Fort Mojave Indian Tribe; and

(iv) the Colorado River Indian Tribes; and

(B) the Advisory Council on Historic Preservation.

(2) Tribal cultural resources management plan developed under paragraph (1) shall be—

(A) based on a completed tribal cultural resources survey; and

(B) include procedures for identifying, protecting, and preserving petroglyphs, ancient trails, intaglios, sleeping circles, artifacts, and other resources of cultural, archaeological, or historical significance in accordance with all applicable laws and policies, including—

(i) the National Historic Preservation Act (16 U.S.C. 470 et seq.); and


(3) RESOURCE PROTECTION.—The tribal cultural resources management plan developed under paragraph (1) shall be—


(4) WITHDRAWAL.—Subject to valid existing rights, all Federal land within the area administratively withdrawn and known as the 'Indian Pass Withdrawal Area' is permanently withdrawn from—

(i) all forms of entry, appropriation, or disposal under the public laws;

(ii) location, entry, and patent under the mining laws; and

(iii) grants for public purposes under all laws relating to mineral, solar, wind, and geothermal energy.''

(b) CONFORMING AMENDMENTS.——

(1) THE CALIFORNIA DESERT PROTECTION ACT OF 1994.—Section 3(d) of the California Desert Protection Act of 1994 (16 U.S.C. 410aa note) is amended by striking "1" and inserting "2," and 3, titles 1 through IX, and titles XIII through XIX.

(2) DEFINITIONS.—The California Desert Protection Act of 1994 (Public Law 108–433; 108 Stat. 481) is amended by inserting after section 2 the following:

"SEC. 3. DEFINITIONS.

"In titles XIII through XIX—

(a) CONSERVATION AREA.—The term 'Conservation Area' means the California Desert Conservation Area.

(b) SECRETARY.—The term 'Secretary' means—

(A) with respect to land under the jurisdiction of the Secretary of the Interior, the Secretary of the Interior; and

(B) with respect to land under the jurisdiction of the Secretary of Agriculture, the Secretary of Agriculture.

(3) ADMINISTRATION OF WILDERNESS AREAS.—Section 103 of the California Desert Protection Act of 1994 (Public Law 108–433; 108 Stat. 481) is amended by striking "(A)

(4) NO BUFFER ZONES.—In general. Congress does not intend for the designation of wilderness areas to—

(A) to require the additional regulation of land adjacent to the wildness areas.

(B) to lead to the creation of protective perimeters or buffer zones around the wilderness areas.

(5) NONWILDERNESS ACTIVITIES.—Any non-wilderness activities (including renewable energy projects, mining, camping, hunting, and military activities) in areas immediately adjacent to the designated wilderness area designated by this Act shall not be restricted or precluded by this Act, regardless of any actual or perceived negative impacts of the nonwilderness activities on the wilderness area, including any potential indirect impacts of nonwilderness activities conducted outside the designated wilderness area on the viewshed, air, noise level, or air quality of wilderness area; and

(B) in subsection (I), by striking "designated by title XIX" and inserting "administered wilderness areas, special management areas, and national monuments designated by this title or titles XIII through XIX"; and

(C) in subsection (g), by inserting "a potential wilderness area, special management areas, or national monument" before "by this Act".

(6) MOJAVE NATIONAL PRESERVE.—Title V of the California Desert Protection Act of 1994 (16 U.S.C. 410aa–41 et seq.) is amended by adding at the end the following:

"SEC. 520. NATIVE GROUNDWATER SUPPLIES.

The Secretary of the Interior shall not acquire or dispose of any property or right for a right-of-way for development projects that propose to use native groundwater in excess of the estimated recharge rate as determined by the United States Geological Survey."
(5) AMENDMENTS TO THE CALIFORNIA MILITARY LANDS WITHDRAWAL AND OVERFLIGHTS ACT OF 1994.—

(A) FINDINGS.—Section 401(b)(2) of the California Military Lands Withdrawal and Overflights Act of 1994 (16 U.S.C. 410aaa-2(b) note) is amended by inserting ‘‘, national monuments, special management areas, potential wilderness areas,’’ before ‘‘and wilderness areas’’.

(B) OVERFLIGHTS; SPECIAL AIRSPACE.—Section 602 of the California Military Lands Withdrawal and Overflights Act of 1994 (16 U.S.C. 410aaa-2) is amended—

(i) in subsection (a), by inserting ‘‘, national monuments, special management areas, potential wilderness areas’’ before ‘‘designated by this Act’’;

(ii) in subsection (b), by inserting ‘‘, national monuments, special management areas, potential wilderness areas’’ before ‘‘designated by this Act’’; and

(iii) by adding at the end the following:

‘‘(d) DEPARTMENT OF DEFENSE FACILITIES.—Nothing in this Act alters any authority of the Secretary of Defense to conduct military operations at installations and ranges within the California Desert Conservation Area that are authorized under any other provision of law.’’

SEC. 3. DESIGNATION OF WILD AND SCENIC RIVERS.

Section 3 of the Wild and Scenic Rivers Act (16 U.S.C. 1278(a)) is amended—

(1) in paragraph (196), by striking subparagraph (A) and inserting the following:

‘‘(A) The approximately 1.4-mile segment of the Amargosa River in the State of California, from the private property boundary in sec. 19, T. 22 N., R. 7 E., to 100 feet downstream of Highway 178, to be administered by the Secretary of the Interior as a scenic river.’’; and

(2) by adding at the end the following:

‘‘(206) SURPRISE CANYON CREEK, CALIFORNIA.—

‘‘(A) IN GENERAL.—The following segments of Surprise Canyon Creek in the State of California, to be administered by the Secretary of the Interior:

(i) The approximately 5.3 miles of Surprise Canyon Creek from the confluence of Frenchman’s Canyon and Water Canyon to 100 feet upstream of Chris Wicht Camp, as a wild river.

(ii) The approximately 1.8 miles of Surprise Canyon Creek from 100 feet upstream of Chris Wicht Camp to the southern boundary of sec. 14, T. 21 N., R. 44 E., as a recreational river.

‘‘(B) EFFECT ON HISTORIC MINING STRUCTURES.—Nothing in this paragraph affects the historic mining structures associated with the former Panamint Mining District.

‘‘(209) DEEP CREEK, CALIFORNIA.—

‘‘(A) IN GENERAL.—The following segments of Deep Creek in the State of California, to be administered by the Secretary of Agriculture:

(i) The approximately 6.5-mile segment from 0.125 mile downstream of the Rainbow Dam site in sec. 33, T. 2 N., R. 2 W., to 0.25-miles upstream of the Road 3N34 crossing, as a wild river.

(ii) The 0.5-mile segment from 0.25 mile upstream of the Road 3N34 crossing to 0.25 mile downstream of the Road 3N34 crossing, as a scenic river.

(iii) The 2.5-mile segment from 0.25 miles downstream of the Road 3 N. 34, crossing to 0.25 miles downstream of the Trail 2W01 crossing, as a wild river.

(iv) The 0.5-mile segment from upstream of the Trail 2W01 crossing to 0.25 mile downstream of the Trail 2W01 crossing, as a scenic river.

(v) The 10-mile segment from 0.25 miles downstream of the Trail 2W01 crossing to the upper limit of the Mojave Dam flood zone in sec. 17, T. 3 N., R. 3 W., as a wild river.

(vi) The 11-mile segment of Holcomb Creek from 0.25 miles downstream of the Road 3N12 crossing to 0.25 miles downstream of Holcomb Crossing, as a recreational river.

(vii) The 3.5-mile segment of the Holcomb Creek from 0.25 miles downstream of Holcomb Crossing to the Deep Creek confluence, as a wild river.

‘‘(B) EFFECT ON SKI OPERATIONS.—Nothing in this paragraph affects—

(i) the operations of the Snow Valley Ski Resort; or

(ii) the State regulation of water rights and water quality associated with the operation of the Snow Valley Ski Resort.

‘‘(210) WHITESTONE RIVER, CALIFORNIA.—The following segments of the Whitewater River in the State of California, to be administered by the Secretary of Agriculture and the Secretary of the Interior, acting jointly:

(A) The 5.8-mile segment of the North Fork Whitewater from the source of the River near Mt. San Gorgonio to the confluence with the Middle Fork, as a wild river.

(B) The 6.4-mile segment of the Middle Fork Whitewater from the source of the River to the confluence with the South Fork, as a wild river.

(C) The 1-mile segment of the South Fork Whitewater River from the section line between sections 32 and 33, T. 1 S., R. 2 E., as a wild river.

(D) The 1-mile segment of the South Fork Whitewater River from the section line between sections 32 and 33, T. 1 S., R. 2 E., to the section line between sections 33 and 34, T. 1 S., R. 2 E., as a recreational river.

(E) The 4.9-mile segment of the South Fork Whitewater River from the section line between sections 33 and 34, T. 1 S., R. 2 E., to the confluence with the Middle Fork, as a wild river.

(F) The 5.4-mile segment of the main stem of the Whitewater River from the confluence of the Middle Forks to the San Gorgonio Wilderness boundary, as a wild river.

(G) The 2.7-mile segment of the main stem of the Whitewater River from the San Gorgonio Wilderness boundary to the southern boundary of section 26, T. 2 S., R. 3 E., as a recreational river.’’

By Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. LEVIN, Mr. BINGAMAN, Mr. WYDEN, Mr. COURTESTY, Mr. ENZI, and Mr. KERRY):

S. 139. A bill to provide that certain tax planning strategies are not patentable, and for other purposes; to the Committee on the Judiciary.

WHEREAS, Mr. BAUCUS recently, the American judge and judicial philosopher Learned Hand once wrote: ‘‘Any one may so arrange his affairs that his taxes shall be as low as possible; he is not bound to choose that pattern which will best pay the Treasury.’’; and

WHEREAS, Judge Hand would probably have been surprised to learn that, through the use of patents, certain individuals have acquired monopolies on methods of arranging one’s affairs to lower taxes.

That is precisely what patenting a tax strategy does: it gives the holder the exclusive right to keep others from a particular transaction or financial arrangement without permission or payment of a royalty.

And patents have been granted on ideas as simple as funding a certain type of tax-favored trust with a specific type of financial product or calculating the ways to minimize the tax burden of converting to an alternative retirement plan.

These commonplace tax planning approaches should be available to everyone. No one should be able to patent those techniques.

Let’s first assure that the tax planning technique is legitimate under the Tax Code and does, indeed, reduce taxes.

In that case, every taxpayer should be able to plan in a way that they can lower their taxes without worry of royalties or worrying that they are violating patent law while filing their tax returns. This is a matter of fairness and uniform application of the tax laws.

Conversely, there are tax planning techniques that are not legitimate under the Tax Code, say, for example, a tax shelter designed to illegally evade taxes.

No taxpayer should be using those strategies. A patent on those ideas may mislead unknowing taxpayers into believing that the strategy is valid under the tax law.

Today, we have gathered a coalition of Senators to introduce legislation to prevent patents from being issued on claims of tax strategies.

Our bill, the ‘‘Equal Access to Tax Planning Act,’’ makes it clear that any strategy for reducing, avoiding, or deferring tax liability relies on the provisions of the Tax Code to work, will not be considered a new or nonobvious idea and therefore not be eligible for a patent.

In the lingo of the patent law, the Tax Code is ‘‘prior art’’—which is just another way of saying it isn’t novel and nonobvious—and methods of complying with the Code cannot be patented. This would be the result under patent law whenever an invention was not found to be novel or nonobvious.

This legislation does not hinder patent protection for otherwise novel, non-tax-driven inventions but only stops the patenting of the tax strategy claims.

Where a patent is indeed granted—for example, where an application advances multiple claims—the taxpayer has certainty that what is not patented is not novel. This is the result under the patent law whenever an invention was another way of saying it isn’t novel and therefore not be eligible for a patent.

Let’s first assume that the tax planning technique is legitimate under the Tax Code and does, indeed, reduce taxes.
allowing inventors to benefit from their creative ideas.

Intellectual property drives our exports and our economy. But patents cannot be used to upset the fair and uniform application of the Tax Code.

Our reliance on voluntary compliance of millions of taxpayers and the Tax Code cannot and should not be co-opted for private gain.

Mr. GRASSLEY. Mr. President, Senator BAUCUS and I first introduced a bill on tax patents for tax loopholes in the 110th Congress. Since then, we have worked with the leaders of the Judiciary Committee, the Patent and Trademark Office, the American Institute of Certified Public Accountants, industry, and members of the patent bar to perfect the language.

I am pleased to introduce this new and improved bill today with Senators BAUCUS, LEVIN, WYDEN, BINGAMAN, CONRAD, ENZI, and KERRY.

There are strong policy reasons to ban tax strategy patents. Tax strategy patents may lead to the marketing of aggressive tax shelters or otherwise mislead taxpayers about expected results. Tax strategy patents encumber the ability of taxpayers and their advisors to use the tax law freely, interfering with the voluntary tax compliance system. If firms or individuals were able to hold patents for these strategies, some taxpayers could face fees simply for complying with the Tax Code. And, tax patents provide windfalls to patent holders by granting them exclusive rights to use loopholes, which could provide some businesses with an unfair advantage.

Tax strategy patents are unlikely to be novel given the public nature of the Tax Code. Moreover, tax strategy patents may undermine the fairness of the Federal tax system by removing from the public domain particular ways of satisfying a taxpayer’s legal obligations. The American Bar Association has urged the Tax Reform Act expressly provides that a strategy for reducing, avoiding or deferring tax liability cannot be considered a new or nonobvious idea, and therefore, a patent on a tax strategy cannot be obtained. This ensures that all taxpayers will have equal access to strategies to comply with the Tax Code. I encourage support for this bill.

By Mr. KIRK (for himself and Mr. DURBIN):

S. 147. A bill to amend the Federal Water Pollution Control Act to establish a deadline for restricting sewage dumping into the Great Lakes and to fund programs and activities for improving wastewater discharges into the Great Lakes; to the Committee on Environment and Public Works.

Mr. KIRK. Mr. President, today I am pleased to join with Senator DURBIN to introduce the Great Lakes Water Protection Act. This bipartisan legislation would set a date certain to end sewage dumping in America’s largest supply of fresh water, the Great Lakes. More than thirty million Americans depend on the Great Lakes for their drinking water, food, jobs, and recreation. We need to put a stop to the poisoning of our water supply. Cities along the Great Lakes must become environmental stewards of our country’s most precious fresh water.

The Great Lakes Water Protection Act gives cities until 2031 to build the full infrastructure needed to prevent sewage dumping into the Great Lakes. Those who violate EPA sewage dumping regulations after that federal deadline will be fined up to $100,000 for each day a violation occurs. These fines will be directed to a newly established Great Lakes Clean-Up Fund within the Clean Water State Revolving Fund. Penalties collected would go into this fund and be reallocated to the states surrounding the Great Lakes.

From there, the funds will be spent on wastewater treatment options, with a special focus on greener solutions such as habitat protection and wetland restoration.

This legislation is sorely needed. Many major cities along the Great Lakes do not have the infrastructure needed to divert sewage overflows during times of heavy rainfall. More than twenty-four billion gallons of sewage are dumped into the Lakes each year; Detroit alone dumps an estimated 13 billion gallons of sewage into the Great Lakes annually. EPA estimates show there is a total of 367 combined sewer outflows that discharge into the Lake Michigan basin alone. This development is echoed throughout the Great Lakes region and is one we need to reverse.

These disastrous practices result in thousands of annual beach closings for the region’s 815 freshwater beaches. Illinois beaches lost $2.4 million in lost revenue every year.

Protecting our Great Lakes is one of my top priorities in the Congress. As an original sponsor of the Great Lakes Restoration Act, I favor a broad approach to addressing needs in the region. However, we must also move forward with tailored approaches to fix specific problems as we continue to push for more comprehensive reform. I am proud to introduce this important legislation that addresses a key problem facing our Great Lakes, and hope my colleagues will support me in ensuring that these important resources become free from the threat of sewage pollution.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 147

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED,

SECTION 1. SHORT TITLE.
This Act may be cited as the “Great Lakes Water Protection Act”.

SEC. 2. PROHIBITION ON SEWAGE DUMPING INTO THE GREAT LAKES.

Section 802 of the Federal Water Pollution Control Act (33 U.S.C. 1342) is amended by adding at the end the following:

(4) PROHIBITION ON SEWAGE DUMPING INTO THE GREAT LAKES.—

(1) DEFINITIONS.—In this subsection:

(A) BYPASS.—The term ‘bypass’ means an intentional diversion of waste streams to bypass any portion of a treatment facility, which results in a discharge into the Great Lakes.

(B) GREAT LAKES.—The term ‘Great Lakes’ has the meaning given the term in section 118(a)(3).

(C) TREATMENT FACILITY.—The term ‘treatment facility’ includes all wastewater treatment units used by a publicly owned treatment works to meet secondary treatment standards or higher, as required to attain water quality standards, under any operating conditions.

(D) TREATMENT WORKS.—The term ‘treatment works’ has the meaning given the term in section 212.

(2) PROHIBITION.—A publicly owned treatment works is prohibited from intentionally diverting waste streams to bypass any portion of a treatment facility at the treatment works if the diversion results in a discharge into the Great Lakes unless—

(A) the bypass is unavoidable to prevent loss of life, personal injury, or severe property damages;

(ii) there is not a feasible alternative to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime; and

(iii) the treatment works provides notice of the bypass in accordance with this subsection; or

(B) the bypass does not cause efficient limitations to be exceeded, and the bypass is for essential maintenance to ensure efficient operation of the treatment facility.

(3) LIMITATION.—The requirement of paragraph (2)(A)(ii) is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent the bypass; and

(B) the bypass occurred during normal periods of equipment downtime or preventive maintenance.

(4) NOTICE REQUIREMENTS.—A publicly owned treatment works shall provide notice to the Administrator (or to the State, in the case of a State that has a permit program approved under this section)—

(A) prior notice of an anticipated bypass; and

(B) notice of an unanticipated bypass by not later than 24 hours after the time at which the treatment works first becomes aware of the bypass.

(5) FOLLOW-UP NOTICE REQUIREMENTS.—In the case of an unanticipated bypass for which a publicly owned treatment works provides notice under paragraph (4)(B), the treatment works shall provide to the Administrator (or to the State in the case of a State that has a permit program approved under this section), not later than 5 days after that federal deadline, a follow-up notice containing a description of—

(A) the cause of the bypass;
"(B) the reason for the bypass; 
"(C) the period of bypass, including the exact dates and times; 
"(D) if the bypass has not been corrected, the anticipated time the bypass is expected to continue; 
"(E) the volume of the discharge resulting from the bypass; 
"(F) recreation use areas that may be impacted by the bypass; and 
"(G) steps taken or planned to reduce, eliminate, and prevent recurrence of the bypass.

"(6) Public Availability of Notices.—A publicly owned treatment works providing a notice under this subsection, and the Administrator shall administer the Fund.

"(7) Sewage Blending.—Bypasses prohibited by this section include bypasses resulting in discharges from a publicly owned treatment works that consist of effluent routed around treatment units and thereafter mixed with effluent from treatment units prior to discharge.

"(8) Implementation.—Not later than 180 days after the date of enactment of this subsection, the Administrator shall establish procedures to ensure that permits issued under this section (or under a State permit program approved under this section) receiving such a notice, shall each notify the holder, by notice, not later than 48 hours after providing or receiving the notice (as the case may be), in a searchable database accessible on the Internet.

"(9) Increase in Maximum Civil Penalty for Violations Occurring After January 1, 2001.—Not later than 180 days after the date of enactment of this subsection, the Administrator shall establish procedures to ensure that permits issued under this section (or under a State permit program approved under this section) to a publicly owned treatment works include requirements to implement this subsection.

"(10) Applicability.—This subsection shall apply to a bypass occurring after the last day of the 1-year period beginning on the date of enactment of this subsection.

SEC. 3. ESTABLISHMENT OF GREAT LAKES CLEANUP FUND.

(a) In General.—Title V of the Federal Water Pollution Control Act (33 U.S.C. 1361 et seq.) is amended—

(1) by redesignating section 519 (33 U.S.C. 1391) as section 518; and

(2) by inserting after section 518 (33 U.S.C. 1377) the following:

"SEC. 519. ESTABLISHMENT OF GREAT LAKES CLEANUP FUND.

"(a) Definitions.—In this section:

"(1) Fund.—The term ‘Fund’ means the Great Lakes Cleanup Fund established by subsection (b).

"(2) Great Lakes; Great Lakes States.—The terms ‘Great Lakes’ and ‘Great Lakes States’ have the meanings given the terms in section 118(a)(3).

"(b) Establishment of Fund.—There is established in the Treasury of the United States a trust fund to be known as the ‘Great Lakes Cleanup Fund’ (in this section referred to as the ‘Fund’).

"(c) Transfers to Fund.—Effective January 1, 2009, any Federal grants authorized to be appropriated to the Fund amounts equivalent to the penalties collected for violations of section 402(d); and

"(d) Administration of Fund.—The Administrator shall administer the Fund.

"(e) Use of Funds.—The Administrator shall—

(1) make the amounts in the Fund available to the Great Lakes States for use in carrying out programs and activities for improving wastewater discharges into the Great Lakes, including habitat protection and wetland restoration; and

"(2) allocate those amounts among the Great Lakes States based on the proportion that—

"(A) the amount attributable to a Great Lakes State (as determined for violations of section 402(d));

"(B) the total amount of those penalties attributable to all Great Lakes States.

"(f) Programs and activities to be funded using amounts made available under this section, a Great Lakes State shall consider steps to protect the Great Lakes and implement programs and activities that address violations of section 402(d) resulting in the collection of penalties.

"(g) Amendments to the State Revolving Fund Program.—Section 607 of the Federal Water Pollution Control Act (33 U.S.C. 1367) is amended—

(1) by inserting ‘‘(a) in General.—’’ before ‘‘(There is);’’

and

(2) by adding at the end the following:

"SEC. 518. TREATMENT OF GREAT LAKES CLEANUP FUND.

For purposes of this title, amounts made available from the Great Lakes Cleanup Fund under section 519 shall be treated as funds authorized to be appropriated to carry out this title and as funds made available under this title, except that the funds shall be made available to the Great Lakes States in accordance with the following:

"(1) Mr. DURBIN. Mr. President, today I am introducing the Great Lakes Water Protection Act with my colleague, Senator Mark Kirk.

We face many challenges in protecting the Great Lakes—from contaminated sediment to industrial pollutants to invasive species. This legislation tackles another significant threat to the water system municipal sewage.

A recent report found that from January 2009 through January 2010, five U.S. cities dumped a combined 41 billion gallons of waste water into the Great Lakes. Sewage and toxic trash water discharges have been associated with elevated levels of bacterial pollutants. For the 40 million people who depend on the Great Lakes for their drinking water, that is no small matter.

When bacteria get too high, beaches have to be closed. In Illinois, we have 52 public beaches along the Lake Michigan shoreline. People use these beaches for swimming, boating, fishing—and many communities generate revenue from the public beaches. Our legislation will quadruple fines for municipalities that dump raw sewage into the Great Lakes and direct the revenue from these penalties to projects that improve water quality.

The bill will also change the expiration dates of the intelligence collection authorities provided in the FISA Amendments Act of 2008 so they, too, last until the end of 2013.

I firmly believe that the United States Government should use these authorities to help prevent against future terrorist attacks against our nation and to collect vital intelligence insights into the capabilities and intentions of our adversaries. We remain a target. Let me briefly describe the three expiring provisions.

First, court-ordered roving authority is authorized against foreign intelligence targets who attempt to thwart FISA surveillance by such actions as rapidly changing cell phones. In a September 2009 letter, the Department of Justice reported to Congress that this authority ‘‘has proven an important intelligence-gathering tool in a small but significant subset of FISA electronic surveillance orders.’’

Second, lone wolf authority allows for court-ordered collection against non-U.S. persons who engage in international terrorism but for whom an association with a specific international terrorist group has not yet been identified. In the last Congress, when the Department of Justice advised that it had not yet been necessary for the Government to use this authority, the Department stated that it could foresee circumstances in which a terrorist target had not actually contacted a terrorist group or was known to have severed his association from a terrorist group.

In the last several years, we have all become aware that we may be attacked by a lone, unaffiliated terrorist—or one whose links to
terrorist groups are only clear after an individual is apprehended.

Third, the collection of business records pursuant to court orders. This provision allows the Government to require the production of ‘‘tangible things’’ in order to obtain foreign intelligence information as part of an investigation. In the September 2009 letter, the Department of Justice urged reauthorization of that authority because ‘‘[t]he absence of such authority could force the FBI to sacrifice key intelligence opportunities.’’

I cannot elaborate into the use of these authorities in this unclassified context. I can say, however, that as the Chairman of the Senate Select Committee on Intelligence and as one who reviews the intelligence on the threats we face, I remain a nation under attack. Providing the authorities to collect intelligence to identify and prevent terrorist attacks on the homeland remains necessary.

It is also important to allow Congress, in the future, to conduct a complete review of FISA provisions. By synchronizing the dates when different pieces of the law expire, Congress can consider changes to FISA at once, prior to the end of 2013.

In closing, I would like to assure all Members of the Senate and the American public that extending these sunsets does not shield them from oversight. There is a system of review and oversight in place that consists of the FISA Court, Inspectors General in the Department of Justice and in the intelligence community, regular oversight reviews by the National Security Division at the Department of Justice, a new Director of Compliance at the National Security Agency, and reporting to the Senate and House Intelligence and Judiciary Committees. As Chairman of the Senate Select Committee and as a member of the Judiciary Committee, I can assure colleagues that the Senate will conduct its oversight, oversight of the Government’s surveillance authorities as a major priority.

I urge my colleagues to support this legislation.

By Mr. ROCKEFELLER (for himself, Mr. HARKIN, Mrs. MURRAY, and Mr. MANCHIN):

S. 153. A bill to improve compliance with occupational safety and health laws, empower workers to raise safety concerns, prevent future mine and workplace tragedies, establish rights of families of victims of workplace accidents, and for other purposes.

Mr. ROCKEFELLER. Mr. President, today I am proud to introduce the Robert C. Byrd Mine and Workplace Safety and Health Act of 2011. This legislation is identical to the bill I introduced last Congress with Senator Cardin. Good job, and will afford miners in West Virginia and employees across the country the safest possible workplace, which is what they deserve. As I have mentioned before, this legislation is a tribute to all miners who have lost their lives and also to my dear friend and colleague, the late Senator Robert Byrd, who devoted his career to improving the working conditions of West Virginia’s miners. I have worked diligently with him to develop this bill.

I am also very pleased that Senators Tom HARKIN, Patty MURRAY, and Joe MANCHIN are joining me in cosponsoring this legislation. Chairman HARKIN and Senator MURRAY are strong advocates for America’s workforce and worked closely with me to draft this bill. Their contributions and expertise on this issue are immeasurable. Senator MANCHIN and I also have a history of working together, when he was Governor, to improve the safety of West Virginia’s mining community. We were there with the families after the Sago, Aracoma, and Upper Big Branch tragedies, and I know that he shares my commitment to miners safe.

I firmly believe that every American deserves a safe and healthy work environment. No family should have to experience the sadness and grief that is felt by the families of other Big Branch victims. Sadly, the Upper Big Branch families are still waiting. They are waiting for answers regarding this terrible tragedy. And, they are waiting for Congress to do even more to strengthen the mine safety laws of the land.

The Upper Big Branch tragedy and several other high-profile workplace accidents around the country last year serve as stark reminders of the need to make sure that all workers can return home to their loved ones at the end of the day. Yet, these types of tragedies are far too common. Each year, thousands of employees die on the job and millions more are injured or become ill. These fatalities, injuries, and illnesses affect not only the lives of individuals, but also the quality of life, but also substantial costs for employers. It is in everyone’s interest to improve the safety and health of America’s workforce.

I also know that improving the safety of our workforce will require hard work and dedication by everyone involved including state and federal officials, businesses, unions, employees, and safety experts. Here in the Senate, I am committed to working with my colleagues on both sides of the aisle—there is no question that we must work together to find real solutions that will save lives in mining and other industries in our country. I have no doubt that we will continue to learn more about the Upper Big Branch disaster as the investigations move forward. But I also know that there are several areas of the law that we can work to fix right now. These improvements will make us more proactive in identifying hazards before they become fatal, foster cooperation between employers and employees to keep everyone safe, improve the efficiency and effectiveness of our regulators, and increase the accountability for those responsible for keeping our workforce safe.

The Robert C. Byrd Mine and Workplace Safety and Health Act of 2011 takes important steps to empower miners to report safety concerns and keep themselves and their coworkers safe. Specifically, it gives whistleblowers up to 180 days to file a complaint if they have been retaliated against, permits the assessment of punitive damages and criminal penalties against operators that retaliate against miners who report safety problems, makes sure that miners do not lose a paycheck while their miners’ rights claims for safety reasons, and allows miners to give private interviews to MSHA without the operator or union representative present, so that they can speak openly about investigations.

Our legislation allows MSHA to be more effective and efficient in its enforcement of our mine safety laws, while also increasing accountability and making sure that the agency is doing everything in its power to keep miners safe. Importantly, it expands MSHA’s authority to subpoena documents and testimonial evidence to stop dangerous acts, and implement additional safety training at unsafe mines. It also creates an independent panel to determine MSHA’s role in serious accidents, and requires that MSHA conducts its investigations in a way that protects every miner regardless of when the miner’s shift occurs.

Another key piece of this bill is the section that reforms the broken “pattern of violations” process and requires MSHA to focus on rehabilitating unsafe mines. The original pattern of violations process was meant to allow MSHA to take additional action against mines that repeatedly violate our laws, but unfortunately it has never been effectively implemented. This bill requires unsafe mines to meet specific safety plans, undergo additional safety inspections, and meet specific safety improvement benchmarks. To make sure that MSHA’s pattern of violations criteria accurately identifies unsafe mines, the Government Accountability Office will evaluate the implementation of MSHA’s new criteria.

I know that Secretary Hilda Solis and Assistant Secretary Joe Main have made mine safety a priority, and I deeply appreciate their work. They are currently examining proposals to administratively change how the pattern of violations process is used, and I support them in those efforts. But ultimately, there is only so much that MSHA can do under existing statute, which is why I believe that Congress must address this matter legislatively.

We also know that workplace disasters are not confined to the mining industry. This bill provides important, protections for workers across all industries under the jurisdiction of the Occupational Safety and
Health Administration. This legislation allows employees to refuse to perform unsafe life-threatening work, updates civil penalties that have not been increased in two decades, gives victims and their families a voice in the investigation and enforcement processes, requires immediate correction of hazardous conditions in the workplace, and improves whistleblower protections for employees.

With these common-sense reforms, we can keep workers safe on the job, while also reducing the costs associated with occupational injuries and illnesses. By doing so, we can save lives, help employers save money, improve productivity, and increase the competitiveness of our workforce.

I hope that my colleagues will carefully consider this legislation and that we can work together on a bipartisan basis to pass meaningful mine and workplace safety legislation this Congress. After the Sago and Aracoma disasters, we passed the MINER Act with strong bipartisan support. We showed then that we can get the job done, and I am confident that we can do it again.

By Mr. KOHL (for himself and Mr. Brown of Ohio):

S. 154. A bill to authorize the Secretary of Education to make grants to support early college high schools and other dual enrollment programs; to the Committee on Health, Education, Labor, and Pension.

Mr. KOHL. Mr. President, today I am reintroducing the Fast Track to College Act, a bill to support the expansion of dual enrollment programs and Early College High Schools. Such programs allow young people to earn up to two years of college credit while also earning their high school diploma.

I believe the key to our country’s economic recovery is a strong investment in our people. By investing in education, we ensure that today’s students are well prepared to compete in a global economy.

Far too many of our students are falling behind in school, and as students struggle with their studies or drop out of school altogether, their futures and the health of our workforce are at risk. Young people who drop out of high school are at increased risk for negative outcomes such as unemployment and incarceration, as well as reliance on public assistance for healthcare, housing, and other basic needs—outcomes that have high costs for their communities and our economy. Conversely, adults who earn bachelor’s degrees earn on average two-thirds more than high school graduates and $1 million more than high school dropouts over their working lives.

Studies show many youth drop out because they don’t see a practical reason to complete high school or go on to get a job. Maybe they don’t think they can get into college, don’t think they can afford to go, or just don’t see the point in going. Dual enrollment programs and Early College High Schools address these issues by showing students that they can succeed in college courses while saving time and money. They don’t drop out because they can see that they are on track to earn a high school diploma and a job. By earning college credit, and possibly even an Associate’s Degree, students are better prepared after high school to continue their education or pursue career training.

That is why my colleagues to support this bill, which provides competitive grant funding for Early College High Schools and other dual enrollment programs that allow low-income students to earn college credit while still in high school.

This bill authorizes $140,000,000 for competitive 6-year grants to schools, with priority given to schools that serve low-income students. The funding will help schools implement new programs, strengthening existing programs, and providing students and teachers with the resources they need to succeed in early college high schools and other dual enrollment programs. The bill also includes $10 million for states to provide support for these programs, as well as an evaluation component so we can measure the program’s effectiveness.

I am proud to sponsor this legislation, with the support of Senator Brown of Ohio, because I believe this investment in our schools will help solve the dropout crisis and secure America’s future by ensuring that all young people can compete in today’s global economy. Further, I believe that if all children, regardless of income or other factors, deserve equal opportunities to fulfill their potential, and it is both morally and fiscally responsible for this Congress to invest in high-quality education programs that help our youth reach their potential.

I urge my colleagues to support this important legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 154

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Fast Track to College Act of 2011.”

SEC. 2. PURPOSE.

The purpose of this Act is to increase secondary school graduation rates and the percentage of students who complete a recognized postsecondary credential by the age of 26, including among low-income students and students from other populations underrepresented in higher education.

SEC. 3. DEFINITIONS.

In this Act:

(1) DUAL ENROLLMENT PROGRAM.—The term “dual enrollment program” means an academic program through which a secondary school student is able simultaneously to earn a secondary school diploma and a postsecondary degree or credential.

(2) EARLY COLLEGE HIGH SCHOOL.—The term “early college high school” means a public secondary school, as defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801), that provides a course of study that enables a student to earn a secondary school diploma and either an associate’s degree or 1 to 2 years of postsecondary credit toward a postsecondary degree credential.

(3) ELIGIBLE ENTITY.—The term “eligible entity” means a local educational agency in a collaborative partnership with an institution of higher education. Such partnerships also may include other entities, such as a nonprofit organization with experience in youth development.

(4) INSTITUTION OF HIGHER EDUCATION.—The term “institution of higher education” has the meaning given such term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

(5) LOCAL EDUCATIONAL AGENCY.—The term “local educational agency” has the meaning given such term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(6) SECRETARY.—The term “Secretary” means the Secretary of Education.

(7) LOW-INCOME STUDENT.—The term “low-income student” means a student who meets a measure of poverty described in section 1118A(b)(5) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6313(a)(5)).

SEC. 4. AUTHORIZATION OF APPROPRIATIONS; RESERVATIONS.

(a) IN GENERAL.—To carry out this Act, there are authorized to be appropriated $150,000,000 for fiscal year 2012 and such sums as may be necessary for each of fiscal years 2013-2017.

(b) EARLY COLLEGE HIGH SCHOOLS.—The Secretary shall reserve not less than 48 percent of the funds appropriated under subsection (a) to support early college high schools under section 5.

(c) OTHER DUAL ENROLLMENT PROGRAMS.—The Secretary shall reserve not less than 45 percent of such funds to support other dual enrollment programs (including early college high schools) under section 5.

(d) STATE GRANTS.—The Secretary shall reserve 10 percent of such funds, or $10,000,000, whichever is less, for grants to States under section 9.

SEC. 5. AUTHORIZED PROGRAM.

(a) IN GENERAL.—The Secretary is authorized to award, on a competitive basis, 6-year grants to eligible entities seeking to establish a new, or support an existing, early college high school or other dual enrollment program.

(b) GRANT AMOUNT.—The Secretary shall ensure that each grant under this section is of sufficient size to enable grantees to carry out all required activities and otherwise meet the purposes of this Act, except that a grant under this section may not exceed $2,000,000.

(c) MATCHING REQUIREMENT.—

(1) IN GENERAL.—An eligible entity shall contribute matching funds toward the costs of the early college high school or other dual enrollment program that is under this section, of which not less than half shall be from non-Federal sources, which funds shall represent not less than the following:

(i) 20 percent of the grant amount received in each of the first and second years of the grant.
(B) 30 percent in each of the third and fourth years.
(C) 40 percent in the fifth year.
(D) 50 percent in the sixth year.
(2) LIMITATION OF AMOUNT CONTRIBUTED.—The Secretary shall allow an eligible entity to satisfy the requirements of this subsection through in-kind contributions.
(d) SUPPLEMENT.—An eligible entity shall use a grant received under this section only to supplement funds that would, in the absence of such grant, be made available from non-Federal funds for support of the activities described in the eligible entity’s application under section 7, and not to supplant such funds.
(e) ACCREDITATION.—To be awarded grants under this section, the Secretary shall give priority to applicants—
(1) that propose to establish or support an early college high school or other dual enrollment program that will serve a student population of which 40 percent or more are students counted under section 11130(a)(5) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6313(a)(5)); and
(2) from States that provide assistance to early college high schools or other dual enrollment programs, how a graduation and career plan will be in place.
(6) how parents or guardians of students that will be served by the early college high school or other dual enrollment program—
(F) school or program design and planning team activities, including curriculum development.
(b) ALLOWABLE ACTIVITIES.—An eligible entity may use grant funds received under section 5 to support the activities described in its application under section 7, including—
(1) purchased equipment that support the curriculum of the early college high school or other dual enrollment program;
(2) developing learning opportunities for students that complement classroom experiences, such as internships, career-based capstone projects, and opportunities to participate in the arts and participate in the arts.
(3) support for developing the early college high school or other dual enrollment program after the grant expires, including by engaging businesses and non-profit organizations.
(c) ASSURANCES.—An eligible entity’s application under subsection (a) shall include assurances that—
(1) in the case of an early college high school, the majority of courses offered, including of postsecondary courses, will be offered at facilities of the pertaining institution of higher education; and
(2) students will not be required to pay tuition or fees for postsecondary credits that are part of the early college high school or other dual enrollment program; and
(3) upon completion of the requisite coursework, each student shall receive an official record of postsecondary credits that have been earned;
(f) faculty teaching such postsecondary courses meet the normal standards for faculty established by the institution of higher education.
(d) WAIVER.—The Secretary may waive the requirement of subsection (c)(1) upon a showing that it is impractical to apply due to geographic considerations.

SEC. 8. PEER REVIEW.
(a) PEER REVIEW OF APPLICATIONS.—The Secretary shall establish peer review panels to review applications submitted pursuant to section 7 and to advise the Secretary regarding such applications.
(b) COMPOSITION OF PEER REVIEW PANELS.—The Secretary shall ensure that each peer review panel is comprised wholly of full-time officers or employees of the Federal Government and includes, at a minimum—
(1) experts in the establishment and administration of early college high schools or other dual enrollment programs from the secondary and postsecondary perspective;
(2) faculty at institutions of higher education and secondary school teachers with expertise in dual enrollment; and
(3) experts in the education of students who may not complete their secondary school education.

SEC. 9. GRANTS TO STATES.

(a) IN GENERAL.—The Secretary is authorized to award, on a competitive basis, 5-year grants to States that, as of the time of the application described in paragraph (f), have in place or are in the process of implementing, in accordance with applicable requirements, a partnership between elementary and secondary schools and other dual enrollment programs that:

(1) includes by engaging businesses and non-profit organizations; and

(b) GRANT AMOUNT.—The Secretary shall ensure that each grant awarded under this section is of sufficient size to enable the grantee to carry out all of the activities required by this Act.

(c) MATCHING REQUIREMENT.—A State receiving a grant under this section shall contribute matching funds from non-Federal sources toward the costs of carrying out activities under this section, which funds shall represent not less than 50 percent of the grant amount received in each year of the grant.

(d) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to States that, as of the time of the application described in paragraph (f), have in place or are in the process of implementing, in accordance with applicable requirements, a partnership between elementary and secondary schools and other dual enrollment programs, such as assistance to de-fray the costs of higher education, such as tuition, fees, and textbooks.

(e) APPLICATION.—

(1) IN GENERAL.—To receive a grant under this section, a State agency shall submit to the Secretary an application at such time, in such manner, and including such information as the Secretary may require.

(2) CONTENTS OF APPLICATION.—At a minimum, the application described in paragraph (1) shall include a description of—

(A) how the State will carry out all of the required activities described in subsection (f);

(B) how the State will identify and eliminate barriers to implementing effective early college high schools and other dual enrollment programs after the grant expires, including by engaging businesses and non-profit organizations; and

(C) how the State will access and leverage additional resources necessary to sustain early college high schools or other dual enrollment programs.

(f) STATE ACTIVITIES.—A State receiving a grant under this section shall use funds for—

(I) creating outreach programs to ensure that prospective students, their families, and community members are aware of early college high schools and other dual enrollment programs in the State;

(II) implementing a statewide strategy for expanding access to early college high schools and other dual enrollment programs for students who are underrepresented in postsecondary education, including at-risk students, including identifying any obstacles to such a strategy under State law or policy;

(III) providing technical assistance to early college high schools and other dual enrollment programs for students who are underrepresented in postsecondary education, and completion of postsecondary degrees and credit accumulation by at-risk students, including identifying any obstacles to such a strategy under State law or policy;

(IV) implementing a statewide strategy for expanding access to early college high schools and other dual enrollment programs, such as brokering relationships and agreements that forge a strong partnership between elementary and secondary schools and other dual enrollment programs, such as advanced placement courses, including by accessing relevant data and quality assurance, governance, accountability, and alignment policies;

(V) planning and delivering statewide training and peer learning opportunities for school leaders and teachers from early college high schools and other dual enrollment programs and school leaders, including school leaders, and instructional coaches who offer on-site guidance;

(VI) disseminating best practices in early college high schools and other dual enrollment programs from across the State and from other States; and

(VII) facilitating statewide data collection, research, and analysis, and reporting to policymakers and other stakeholders.

SEC. 10. REPORTING AND OVERSIGHT.

(a) REPORTING BY GRANTEES.—

(1) IN GENERAL.—The Secretary shall establish uniform guidelines for all grantees under this Act concerning the information that each grantee shall report annually to the Secretary in order to demonstrate progress toward achieving the purpose of this Act.

(2) CONTENTS OF REPORT.—At a minimum, a report submitted under this subsection by an eligible entity receiving funds under section 1111(b)(1)(C)(i) shall include the following information about the students participating in the school or program, for each category of students described in section 1111(b)(1)(C)(i) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(1)(C)(i)):

(A) The number of students.

(B) The percentage of students scoring advanced, proficient, basic, and below basic on the assessments described in section 1111(b)(2)(B) of such Act of 1965 (20 U.S.C. 6311(b)(2)(B)).

(C) The performance of students on other assessments or measurements of achievement.

(D) The number of secondary school credits earned.

(E) The number of postsecondary credits earned.

(F) Attainment rate, as appropriate.

(G) Graduation rate.

(H) Placement in postsecondary education or advanced training, in military service, and in employment.

(I) A description of the school or program’s student, parent, and community outreach and engagement.

(b) REPORTING BY SECRETARY.—The Secretary shall—

(I) annually report on the progress made by States in implementing this Act, including the number of States that have implemented this Act and the number of students who have participated in the implementation of this Act; and

(II) annually report on the progress made by States in implementing this Act, including the number of States that have implemented this Act and the number of students who have participated in the implementation of this Act.

(c) MONITORING VISITS.—The Secretary’s designee shall visit each grantee under this Act at least once for the purpose of—

(I) ensuring that each grantee awarded under this Act is making significant progress toward achieving the purpose of this Act;

(II) providing technical assistance to eligible entities concerning best practices in early college high schools and other dual enrollment programs and shall disseminate such best practices among eligible entities, State educational agencies, and local educational agencies.

SEC. 11. RULES OF CONSTRUCTION.

(a) EMPLOYEES.—Nothing in this Act shall be construed to alter or otherwise affect the rights, remedies, and procedures afforded to the employees of local educational agencies (including schools) or institutions of higher education under Federal, State, or local laws, or the rights, remedies, and procedures afforded to the employees of local educational agencies (including schools) or institutions of higher education under Federal, State, or local laws.

(b) GRADUATION RATE.—Notwithstanding any other provision of law, a student who graduates from an early college high school supported under this Act shall be considered to have graduated on time for purposes of section 1111(b)(1)(C)(vi) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(1)(C)(vi)).

By Mr. KOHL:

S. 155. A bill to amend the Internal Revenue Code of 1986 to provide an enhanced credit for research and development by companies that manufacture products in the United States; to the Committee on Finance.

Mr. KOHL. Mr. President, I rise today to introduce three bills that I believe will be important for our small businesses, especially our smaller manufacturers. In each of these bills, there is an emphasis on keeping our research and development and manufacturing here in the United States, rewarding our innovative American businesses with predictable credits and equitable treatment, and creating good paying jobs.

The first bill, S. 155, is designed to incentivize keeping jobs in the United States by increasing the existing Research & Development Credit. The Domestic Jobs Innovation Bonus Act would create a bonus R&D Credit that increases incrementally to reward a higher percentage of domestic production. To earn the bonus credit, a company would need to make at least half of their products domestically—and for doing so would receive an additional 2 percentage points on top of the existing R&D credit. The credit would max out at a 10 percentage point increase for companies with 90 percent to 100 percent of their receipts from domestic production. For example, a company with 100 percent domestic production that would normally receive a 20 percent R&D tax credit would receive a 30 percent credit under this proposal.

To be clear, this isn’t a tax credit that will benefit every company that has a presence in the United States. It...
may not benefit many large, multi-national corporations, but those companies will still have access to the existing R&D Credit, which I support as well.

It is my hope that a credit like this could empower a company that is deciding whether to manufacture and re-search here or abroad, to choose America.

I am introducing a second bill, S. 156, with Senators CORKER and ALEXANDER that would establish a uniform energy efficiency descriptor for all water heaters and improve the testing methods by which that descriptor is determined. Currently, water heaters are lumped into two categories under two federal statutes, based on arbitrary gallon capacity and energy input ratings. “Smaller” water heaters are covered by the National Appliance Energy Conservation Act, NAECA, and must be rated using an energy factor or EF rating. “Larger” water heaters are within the scope of the Energy Policy Act of 2005, EPACT, and must be rated using a thermal efficiency or TE rating. Not only do the testing methods differ, but a manufacturer is forbidden to place an EF rating on a TE-sized unit, and vice versa.

This legislation would direct the Department of Energy to work with industry stakeholders to develop a uniform energy efficiency descriptor that applies to all sizes of water heaters. It also would develop a test method to accurately determine that descriptor for all types of water heaters. It is my hope that the water heating manufacturing community can develop and implement the new test method and descriptor that will eliminate confusion and enable consumers and business owners to make informed purchasing decisions on water heaters. In today’s tough economy, energy bills continue to stretch family budgets. Families can save money and conserve energy if they have accurate information about how much energy home appliances consume.

The difference between EF and TE ratings was based on the assumption that smaller units were exclusively for residential uses while larger units were exclusively for commercial purposes. Due to advances in manufacturing technology, the assumptions underlying the earlier dividing line are no longer accurate. In fact, both larger and smaller units are made by leading U.S. manufacturers are used in residences without regard to which Federal law applies. Yet, Federal legislation continues to be written by taking this distinction into account.

In particular, these American companies are affected by the current disparate energy standards because it can disadvantage some of their products. Establishing one standard will help breakdown a patchwork of efficiencies and efficiency designations at both the state and federal level. For example, water heaters rated with a TE rating are not eligible for the ENERGY STAR label, and accordingly, not eligible for many state appliance rebate programs that link their incentives to an ENERGY STAR designation. This bill will make it so all products are competing on a level playing field for all incentives.

In addition to the energy savings that this bill will provide, it is also about the jobs potential for companies making these cutting-edge products. A globally-recognized cluster of water technology companies is emerging in the City of Orange County, one of the original home to the home to go solar technology companies. An important part of this effort is innovative water heater technologies. Incentivizing these products through predictable and equitable standards is vital to these companies.

The third bill, S. 157, would extend the Section 48 investment tax credit to solar light pipe technology. This is a promising new technology that could save our businesses money on their electricity bills, and reduce our overall energy consumption. Something we all can agree. Light pipes collect natural light, and then through the use of sensor technology, automatically dim the other lights in a building—thereby using less electricity for the same amount of light.

Despite the clear benefits of the technology, high cost has kept many businesses from using light pipes. Adding this technology to Section 48 will provide that boost that these businesses need to justify the expense.

I became aware of this technology because one of the companies that makes it is based in Manitowoc, Wisconsin. This company, Orion Energy Systems, employs about 250 people, and has been growing even during this tough economic time. In addition to light pipes, Orion makes energy efficient lighting systems, and partners with wind and solar power companies to significantly reduce the energy costs for many of our largest and most distinguished companies. Orion has been deployed at more than 6,000 facilities, and has worked with 126 of the Fortune 500 companies. Since 2001, Orion customers have saved more than $1 billion in electricity costs by displacing nearly 600 megawatts.

This credit will help Orion and companies like it create thousands of jobs through the production of the technology as well as installing it.

I urge my colleagues to support all of these bills, and I hope that they are enacted as part of an agenda that focuses on innovation, job creation, and shoring up our vital manufacturing sector.

By Mrs. BOXER:

S. 170. A bill to provide for the affordable refinancing of mortgages held by Fannie Mae and Freddie Mac; to the Committee on Banking, Housing, and Urban Affairs.

Mrs. BOXER. Mr. President, I rise today to introduce the Helping Responsible Homeowners Act of 2011. This legislation will eliminate barriers that have prevented millions of borrowers who continue to make their payments on time from taking advantage of historically low interest rates and refinancing their mortgages.

Despite a recent uptick, interest rates for 30-year home mortgages remain historically low and under five percent. Yet of the 31.5 million mortgages guaranteed by Fannie Mae and Freddie Mac, nearly 13 million still carry an interest rate at or above 6 percent. This bill would allow non-delinquent mortgages to be refinanced at current rates, putting hundreds of dollars a month back in the pockets of struggling families.

The Administration’s Home Affordable Refinance Program has resulted in Fannie Mae and Freddie Mac refinancing 520,000 loans through October for 2010, far short of its goal of assisting four to five million homeowners.

One reason for the program’s failure is that Fannie and Freddie continue to charge risk-based fees to refinance a mortgage. For borrowers, these additional fees can be as high as two percent of the loan amount, or an extra $4,000 on a $200,000 loan. In my home state of California, where prices are higher, that might be $8,000 on a $400,000 loan. By discouraging borrowers struggling to keep up with their payments, this is an additional cost they simply cannot afford.

Fannie and Freddie already bear the risks on these loans; yet this policy actually makes it less likely that borrowers will be able to take advantage of the low rates and increases the chance they will eventually default.

Many borrowers also have been blocked from refinancing by the owner of their second mortgage, even though reducing payments on the first mortgage would make it more likely the borrower would be able to continue making payments on the second.

To remove these barriers and allow borrowers current on their payments to refinance their mortgage loans, the Helping Responsible Homeowners Act would eliminate risk-based fees on loans for which Fannie and Freddie already bear the risk; remove refinancing limits on properties that lost value during the real estate crisis; make it easier for borrowers with second mortgages to participate in refinancing programs; and require that borrowers are able to receive a fair interest rate, comparable to that received by any other current borrower who has not suffered a drop in home value.

At a time when millions of Americans have been forced out of their homes, this legislation will ensure that homeowners who make their payments on time will be able to refinance their mortgages at current low rates so they can stay in their homes. I urge my colleagues to join me and to support this legislation.

By Mr. HARKIN:

S. 174. A bill to improve the health of Americans and reduce health care costs by reorienting the Nation’s health care
system toward prevention, wellness, and health promotion; to the Committee on Finance.

Mr. HARKIN. Mr. President, the Healthy Lifestyles and Prevention America Act, also known as the HeLP America Act, will improve the health of Americans and reduce health care costs by emphasizing prevention, wellness, and health promotion in our communities, workplaces and schools.

We made a significant investment in prevention as part of the passing of the historic Affordable Care Act into law. The robust array of provisions contained in the HeLP America Act continue to build off the investments made by the Affordable Care Act and together, they will significantly transform our current sick care system into a true health care system.

Make no mistake about it; these combined efforts will continue our transformation into a genuine wellness society by keeping people from developing chronic diseases and from costly hospitalizations in the first place.

Currently, the United States spends more than $2 trillion on health care each year but historically we invest just four cents out of every dollar in preventive health care. Let's repeat that—just four cents out of every dollar is invested in prevention and public health.

This is pennies despite all the research that shows that prevention and public health can effectively reduce health care spending.

Well, I am proud that the bill before the Senate continues to make significant investments in prevention and wellness. The HeLP America Act will put additional systems into place that will improve access to nutritious foods, opportunities for physical activity, and affordability of recommended preventive services.

The bill focuses on initiatives to make kids and schools healthier. In particular, it will support State efforts to provide resources to child care providers to help them meet high-quality physical activity and healthy eating standards. It also directs the Department of Education to provide guidance and technical assistance to schools to provide equal opportunities for students with disabilities for physical education and extracurricular athletics.

In addition, the bill focuses on initiatives to make healthier communities and workplaces. For example, it requires the Secretary of Health and Human Services to establish guidelines in physical activity for children under the age of 5 and the Secretary of Agriculture to establish a grant program promoting and expanding efforts to create community gardens. Specific to small businesses and workplace wellness programs, there is a provision that allows employers to deduct the cost of athletic facility memberships for their employees and exempts this benefit as taxable income for employees.

The HeLP America Act also creates systems that give Americans the information they need to make informed decisions. In particular, there is a provision that requires uniform guidelines be developed for the use of nutrient labeling symbols or systems on the front of food packages. There are provisions meant to strengthen federal initiatives to improve the health literacy of consumers by making health information easier to understand and health care systems easier to navigate.

Let me be clear, this bill doesn’t just tinker around the edges; it changes the very paradigm of a variety of systems to make it easier for Americans to be healthy. After many years of advocating for wellness and prevention, I am thrilled to see that these things were at the very heart of the historic Affordable Care Act passed into law. But there is still much more to be done, and the HeLP America Act is an important step in continuing our transformation into a genuine wellness society and getting health care costs under control.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

SEC. 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Healthy Lifestyles and Prevention America Act” or the “HeLP America Act”.

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

TITLE I—HEALTHIER KIDS AND SCHOOLS

Sec. 102. Access to local foods and school gardens at preschools and child care.
Sec. 103. Fresh fruit and vegetable program.
Sec. 104. Equal physical activity opportunities for students with disabilities.

TITLE II—HEALTHIER COMMUNITIES AND WORKPLACES

Subtitle A—Creating Healthier Communities Sec. 201. Technical assistance for the development of joint use agreements.
Sec. 203. Community gardens.

Sec. 204. Physical activity guidelines for Americans.
Sec. 205. Tobacco taxes parity.
Sec. 206. Leveraging and coordinating federal resources for improved health.

Subtitle B—Incentives for a Healthier Workforce

Sec. 211. Tax credit for employers for costs of implementing wellness programs.
Sec. 212. Employer-provided off-premises athletic facilities.
Sec. 213. Task force for the promotion of breastfeeding in the workplace.
Sec. 214. Improving healthy eating and active living options in Federal workplaces.

TITLE III—RESPONSIBLE MARKETING AND CONSUMER AWARENESS

Sec. 301. Guidelines for reduction in sodium content in certain foods.
Sec. 302. Nutrition labeling for food products sold principally for use in restaurants or other retail food establishments.
Sec. 303. Front-label food guidance systems.
Sec. 304. Rulemaking authority for advertising to children.
Sec. 305. Health literacy research, coordination and dissemination.
Sec. 306. Disallowance of deductions for advertising and marketing expenses relating to tobacco products.
Sec. 307. Incentives to reduce tobacco use.

TITLE IV—EXPANDED COVERAGE OF PREVENTIVE SERVICES

Sec. 401. Required coverage of preventive services under the Medicaid program.
Sec. 402. Coverage for comprehensive workplace wellness program and preventive services.
Sec. 403. Health professional education and training in healthy eating.

Sec. 501. Grants for Body Mass Index data analysis.

TITLE I—HEALTHIER KIDS AND SCHOOLS

SEC. 101. NUTRITION AND PHYSICAL ACTIVITY IN CHILD CARE QUALITY IMPROVEMENT.

Section 658G of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858e) is amended—

(1) by striking “choice,” and inserting “choices;” and

(2) by inserting after “referral services)” the following: “, and the provision of resources to enable eligible child care providers to meet, exceed, or sustain success in meeting or exceeding Federal or State high-quality program standards relating to health, mental health, nutrition, physical activity, and physical development.”

SEC. 102. ACCESS TO LOCAL FOODS AND SCHOOL GARDENS AT PRESCHOOLS AND CHILD CARE.

Section 18(g) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(g)) is amended—

(1) by redesignating paragraphs (1) through (4) as paragraphs (2) through (5), respectively;

(2) by inserting before paragraph (2) (as redesignated by paragraph (1)) the following: “(1) Description.—In this subsection: “(A) CHILD CARE CENTER.—The term ‘child care center’ means a child care center participating in the program under section 1701 of this title that solely participates in the program under subsection (r) of that section.”
the Secretary to carry out this section such sums as are necessary, to remain available until expended.

(2) RECEIPT AND ACCEPTANCE.—The Secretary shall make notice, shall accept, and shall use to carry out this section the funds transferred under paragraph (1), without further appropriation.; and

(3) REPEAL.—The provisions of subsection (b) of section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801) are amended by adding the following:

SEC. 104. EQUAL PHYSICAL ACTIVITY OPPORTUNITIES FOR STUDENTS WITH DISABILITIES.

(a) IN GENERAL.—The Secretary shall promote equal opportunities for students with disabilities to be included and to participate in physical education and extracurricular athletics implemented in, or in conjunction with, elementary schools, secondary schools, and institutions of higher education, by ensuring the provision of appropriate technical assistance and guidance for schools and institutions described in this subsection and their personnel.

(b) TECHNICAL ASSISTANCE AND GUIDANCE.—The provision of technical assistance and guidance described in subsection (a) shall include—

(1) providing technical assistance to elementary schools, secondary schools, local educational agencies, educational agencies, and institutions of higher education, regarding—

(A) inclusion and participation of students with disabilities, in a manner equal to that of the other students, in physical education opportunities (including classes), and extracurricular opportunities, including technical assistance on providing reasonable modifications to policies, practices, and procedures, and providing supports to schools with disabilities, using joint use agreements, to implement technical assistance, and

(B) provision of adaptive sports programs, in the physical education and extracurricular athletics opportunities, including programs with competitive sports leagues or competitions, for students with disabilities; and

(2) responsibilities of the schools, institutions, and agencies involved under section 504, the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), and any other applicable Federal law to provide students with disabilities with access to physical education and extracurricular athletics;

(3) monitoring the extent to which physical education and extracurricular athletics opportunities for students with disabilities are implemented, including with elementary schools, secondary schools, and institutions of higher education.

(c) DEFINITIONS.—In this section—

(1) AGENCIES.—The terms ‘local educational agency’ and ‘State educational agency’ have the meanings given the terms in the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(2) SCHOOLS.—The terms ‘elementary school’, ‘secondary school’, and ‘institution of higher education’ have the meanings given the terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(3) GRANT.—The term ‘grant’ means a grant, in effect before the date of the enactment of this Act (20 U.S.C. 1171 et seq.), that is received by an elementary school, secondary school, or institution of higher education, respectively (as defined in section 9101 of the Elementary and Sec-

(4) STUDENT WITH A DISABILITY.—

(a) IN GENERAL.—The term ‘student with a disability’ means an individual who—

(i) attends an elementary school, secondary school, or institution of higher education; and

(ii) who—

(I) is eligible for, and receiving, special education or related services under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.); or

(II) is an individual with a disability, for purposes of section 309 of the Americans with Disabilities Act of 1990.

(b) STUDENTS WITH DISABILITIES.—The term ‘students with disabilities’ means more than 1 student with a disability.

(c) TABLE OF CONTENTS.—The table of contents in section 1(b) of the Rehabilitation Act of 1973 is amended by inserting after the heading ‘TITLES’ the following:

SECOND TITLE—HEALTHIER COMMUNITIES AND WORKPLACES

Title II—Creating healthier Communities

Subtitle A—Creating healthier Communities

SEC. 201. TECHNICAL ASSISTANCE FOR THE DEVELOPMENT OF JOINT USE AGREEMENTS.

(a) IN GENERAL.—The Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control and Prevention and in coordination with the Secretary of Education, shall establish a joint use agreement program to develop and disseminate leading national experts and organizations with knowledge and expertise on community health.

(b) DEFINITION.—In this section, the term ‘joint use agreement’ means an agreement between an elementary school and another entity relating to the use of the school’s facilities, equipment, or property, including recreational and food services facilities, equipment, and property, by individuals other than the school’s students or staff.

SEC. 202. COMMUNITY SPORTS PROGRAMS FOR INDIVIDUALS WITH DISABILITIES.

Pursuant to title III of the Public Health Service Act (42 U.S.C. 233g et seq.), this section is amended by adding the following:

SEC. 309V.5. COMMUNITY SPORTS PROGRAMS FOR INDIVIDUALS WITH DISABILITIES.

(a) IN GENERAL.—

(1) INDIVIDUAL WITH A DISABILITY DEFINED.—For purposes of this section, the term ‘individual with a disability’ means any person who has a disability as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102).

(2) INDIVIDUAL WITH A PHYSICAL DISABILITY.—The term ‘individual with a physical disability’ means an individual with a physical or mental disability that substantially limits one or more of such person’s major life activities.

(3) COMMUNITY SPORTS GRANTS PROGRAM.—The Secretary, in collaboration with the National Advisory Committee on Community Sports Programs for Individuals with Disabilities, may make grants to States or other localities, public or private, to develop and implement community-based programs, and sports and
athletic programs for individuals with disabilities, including youth with disabilities.

"(b) APPLICATION.—To be eligible to receive a grant under this section, a public or nonprofit private entity shall submit to the Secretary an application at such time, in such manner, and containing such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(c) AUTHORIZED ACTIVITIES.—Amounts awarded under a grant under subsection (a) shall be used for—

"(1) community-based sports programs, league or competitions in individual or team sports for individuals with physical disabilities;

"(2) regional sports programs or competitions for individual or team sports for individuals with physical disabilities;

"(3) the development of competitive team and individual sports programs for individuals with disabilities at the high school and collegiate level; or

"(4) the development of mentoring programs to encourage participation in sports programs for individuals with disabilities, including individuals with recently acquired disabilities.

"(d) PRIORITIES.—

"(1) ADVISORY COMMITTEE.—The Secretary shall establish a National Advisory Committee on Community Sports Programs for Individuals with Disabilities Consisting of—

"(A) a representative of organizations supporting individuals with disabilities; and

"(B) a representative of athletic programs for individuals with disabilities, including athletes with physical disabilities or their family members.

"(2) REPRESENTATION.—The Advisory Committee established under paragraph (1) shall include representatives of—

"(A) the Department of Health and Human Services on Disability; (B) the United States Surgeon General; (C) the Centers for Disease Control and Prevention; (D) disabled sports organizations; (E) organizations that represent the interests of individuals with disabilities; and (F) individuals with disabilities (including athletes with physical disabilities) or their family members.

"(3) DISSEMINATION OF INFORMATION.—The Secretary shall disseminate information about the availability of grants under this section in a manner that is designed to reach public agencies and nonprofit private organizations that are dedicated to providing outreach, advocacy, or independent living services to individuals with disabilities.

"(f) TECHNICAL ASSISTANCE.—The Secretary, in conjunction with the United States Olympic Committee and disabled sports organizations, shall establish a technical assistance center to provide training, support, and information to grantees under this section and most other current and operating community sports programs for individuals with disabilities.

"(g) REPORT TO CONGRESS.—Not later than 180 days after the date of enactment of this section, and annually thereafter, the Secretary shall submit to Congress a report summarizing activities, findings, outcomes, and recommendations resulting from the grant projects funded under this section during the year for which the report is being prepared.

"(h) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—At least every 5 years, the Secretary of Health and Human Services (in this Act referred to as the "Secretary") shall publish a report entitled "Physical Activity Guidelines for Americans". Each such report shall contain physical activity information and guidelines for the general public, and shall be promulgated as final or emergency regulation in carrying out any Federal health program.

"(2) BASIS OF GUIDELINES.—The information and guidelines contained in each report required under paragraph (1) shall be based on the preponderance of the scientific and medical knowledge which is current at the time the report is prepared, and shall include guidelines for identified population subgroups, including children, if the preponderance of scientific and medical knowledge indicates that such subgroups require different levels of physical activity.

"(i) APPROVAL BY SECRETARY.—

"(1) REVIEW.—Any Federal agency that proposes to issue any physical activity guidance for the general public or identified population subgroups shall submit the text of such guidance to the Secretary for a 60-day review period.

"(2) BASIS OF REVIEW.—(A) IN GENERAL.—During the 60-day review period established in paragraph (1), the Secretary shall review and approve or disapprove such guidance that assures that the guidance either is consistent with the "Physical Activity Guidelines for Americans". The term "medical or new scientific knowledge which is determined to be necessary by the Secretary. If after such 60-day review period the Secretary has not notified the proposing agency that such guidance has been disapproved, the Secretary finds that such guidance is inconsistent with the "Physical Activity Guidelines for Americans" and so notifies the proposing agency, such agency shall follow the procedures set forth in this subsection before disseminating such proposal to the public in final form. If after such 60-day period, the Secretary disapproves such guidance as inconsistent with the "Physical Activity Guidelines for Americans" the proposing agency shall—

"(i) publish a notice in the Federal Register of the availability of the full text of the proposal and the preamble of such proposal which shall include the explanation of the basis for such disapproval; and

"(ii) make public notice available for public inspection, including, among other things, any written comments received during such period before public dissemination along with an address where copies may be obtained.

"(j) NOTIFICATION OF DISAPPROVAL.—If after the 60-day period for comment as provided in subparagraph (b) the Secretary disapproves a proposed physical activity guidance, the Secretary shall notify the Federal agency submitting such guidance of such disapproval, and such guidance may not be issued, except as provided in subparagraph (b).

"(k) REVIEW OF COMMENTS.—If after review of comments received during the comment period, the Secretary may approve for dissemination by the proposing agency a final version of such physical activity guidance which includes an explanation of the basis for the final guidance which addresses significant and substantive comments as determined by the proposing agency.

"(l) ANNOUNCEMENT.—Any such final physical activity guidance shall be disseminated under subparagraph (b) shall be announced in a notice published in the Federal Register, before public dissemination along with an address where copies may be obtained.

"(m) NOTIFICATION OF DISAPPROVAL.—If after the 60-day period for comment as provided in subparagraph (b) the Secretary disapproves a proposed physical activity guidance, the Secretary shall notify the Federal agency submitting such guidance of such disapproval, and such guidance may not be issued, except as provided in subparagraph (b).

"(n) DEFINITIONS.—In this subsection:

"(1) "Physical activity guidance" means the term "physical activity" but includes, but not be limited to, physical activity guidance, such guidance includes, but not be limited to, physical activity guidance, such guidance may include physical activity guidance issued by the Federal government; and

"(2) "Identified population subgroups" shall include, but not be limited to, subgroups based on factors such as age, sex, race, or physical disability.

"(3) "Existing authority not affected."—This section does not place any limitations on—

"(A) the conduct or support of any scientific or medical research by any Federal agency; or
(2) the presentation of any scientific or medical findings or the exchange or review of scientific or medical information by any Federal agency.

SEC. 204. TOBACCO TAXES PARITY.

(a) INCREASE IN EXCISE TAX ON SMALL CIGARETTES AND SMALL CIGARS.—

(1) Section 5701(a)(1) of the Internal Revenue Code of 1986 is amended by striking ‘‘$50.33’’ and inserting ‘‘$77.83’’.

(2) Section 5701(b)(1) of the Internal Revenue Code of 1986 is amended by striking ‘‘$50.33’’ and inserting ‘‘$77.83’’.

(b) TAX PARITY FOR PIPE TOBACCO AND ROLL-YOUR-OWN TOBACCO.—

(1) Section 5701(f) of the Internal Revenue Code of 1986 is amended by striking ‘‘$24.78 per thousand’’ and inserting ‘‘$38.32’’.

(2) Section 5701(e) of the Internal Revenue Code of 1986 is amended by striking ‘‘$50.33’’ and inserting ‘‘$77.83’’.

(c) CLARIFICATION OF DEFINITION OF SMALL CIGARS.—Paragraphs (1) and (2) of section 5701(a) of the Internal Revenue Code of 1986 are each amended by striking ‘‘three pounds per thousand’’ and inserting ‘‘four and one-half pounds per thousand’’.

(d) CLARIFICATION OF DEFINITION OF CIGARETTE.—Paragraph (2) of section 5702(b) of the Internal Revenue Code of 1986 is amended by inserting before the final period the following: ‘‘and any roll for smoking containing tobacco that weighs no more than four and a half pounds per thousand, unless it is wrapped in whole tobacco leaf and contains not more than one cigarette-styled filter’’.

(e) TAX PARITY FOR SMOKLESS TOBACCO.—

(1) Section 5701(e)(5) of the Internal Revenue Code of 1986 is amended by striking ‘‘$34.70’’ and inserting ‘‘$55.30’’.

(2) Section 5701(l)(5) of the Internal Revenue Code of 1986 is amended by striking ‘‘$50.33’’ and inserting ‘‘$77.83’’.

(f) TAXES AND SMALL CIGARS.—

(1) Section 5702(e) of the Internal Revenue Code of 1986 is amended by inserting at the end the following:

‘‘(C) by adding at the end the following:

‘‘(3) CIGARETTE TUBE DEFINITION.—Section 5702(e)(3) of the Internal Revenue Code of 1986 is amended by inserting ‘‘chewing tobacco, discrete single-use or single-dose unit’’.”

(2) CIGARETTE PAPER DEFINITION.—Section 5702(e) of the Internal Revenue Code of 1986 is amended by inserting ‘‘except tobacco, and inserting ‘‘or cigs’’.

(3) UNDETERMINED DEFINITION.—Section 5702(f) of the Internal Revenue Code of 1986 is amended by inserting before the period the word ‘‘cigars’’.

(4) IMPORTER DEFINITION.—Section 5702(k) of the Internal Revenue Code of 1986 is amended by inserting ‘‘any other tobacco product’’ after ‘‘cigars or cigarettes’’.

(5) REGULATIONS.—

(a) HEALTH IMPACTS OF NON-HEALTH LEGISLATION.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the National Prevention, Health Promotion and Public Health Council, shall enter into a memorandum of understanding with the National Academy of Sciences for the conduct of a study to assess the potential health impacts of major non-health related legislation that is likely to be considered by Congress within a year of completion of the study. Such study shall identify the ways in which such legislation involved is likely to impact the health of Americans and shall contain recommendations to Congress on ways to maximize the positive health impacts and minimize the negative health impacts.

(2) TIMING.—The timing of the study under paragraph (1) shall be provide for in a manner ensures that the study will be available at least 3 months prior to the consideration of the legislation involved by Congress.

(3) GUIDELINES.—To the extent practicable, the Council under paragraph (1) shall ensure that the study conducted under this subsection complies with the consensus guidelines developed pursuant to the 1st proviso to section 3(a) of such Act, and make available to the general public, a report that—

(A) summarizes the direct, indirect, and cumulative health impacts identified in the assessment; and

(B) contains recommendations for how to minimize negative health impacts of the legislation involved.

(4) TYPE OF LEGISLATION.—For purposes of this subsection, the term ‘‘non-health related legislation’’ shall have the meaning given such term by the Council under paragraph (1), and shall include legislation that is likely to have impacts on the health of Americans where such impacts are not likely to be considered by Congress to the extent required by their scope without the conduct of an assessment under this subsection.

(5) EXEMPTIONS.—Exemptions of major non-health related legislation that could be the subject of the study include reauthorizations of the Safe, Accountable, Flexible, Efficient, and Safe Transportation Equity Act: A Legacy for Users (SAFETEA-LU; Public Law 109-59), the Food, Conservation, and Energy Act of 2008 (Public Law 110-246), and the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.).

(b) IMPROVING HEALTH IMPACTS OF FEDERAL AGENCY ACTIVITIES.—

(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention and in coordination with the Director of the National Prevention, Health Promotion and Public Health Council, shall detail employees of the Department of Health and Human Services to policy and program planning offices of other Federal departments and agencies, including the Department of Transportation, the Department of Housing and Urban Development, the Department of Agriculture, the Department of Education, and the Department of the Interior, in order to assist those departments and agencies to consider the impacts of their programs on the health of Americans and to assist with the integration of health goals into the activities of the departments and agencies, as appropriate.

(2) ENFORCEMENT.—The Council, under paragraph (1) shall assist with assessments of the potential impacts of the programs and...
activities of the department or agency involved on the health and well-being of the populations served, the development of metrics and performance standards that can be appropriately compared, the activities, performance measurements, and grant and contract standards of the department or agency, and the development of the report required by paragraph (3).

(3) REPORTS.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, each department and agency with an investment under this section shall submit to the National Prevention, Health Promotion and Public Health Council, the Committee on Health, Education, Labor, and Pension Services, and the Committee on Energy and Commerce of the House of Representatives a report detailing the health impacts of the department or agency’s activities and any plans to improve those impacts.’’

Subtitle B—Incentives for a Healthier Workforce

SEC. 211. TAX CREDIT TO EMPLOYERS FOR COSTS OF IMPLEMENTING WELLNESS PROGRAMS.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 of subchapter A of the Internal Revenue Code of 1986 is amended by adding at the end the following:

‘‘SEC. 45S. WELLNESS PROGRAM CREDIT.

‘‘(a) Allowance of Credit.—

‘‘(1) IN GENERAL.—In the case of an employer for purposes of section 38, the wellness program credit determined under this section for any taxable year during the credit period with respect to an employee is an amount equal to 50 percent of the costs paid or incurred by the employer in connection with a qualified wellness program for the employee during such year.

‘‘(2) LIMITATION.—The amount of credit allowed under paragraph (1) for any taxable year shall not exceed the sum of—

‘‘(A) the product of $250 and the number of employees of the employer not in excess of 200 employees, plus

‘‘(B) the product of $100 and the number of employees of the employer in excess of 200 employees.

‘‘(3) QUALIFIED WELLNESS PROGRAM.—For purposes of this section—

‘‘(A) In General.—The term ‘qualified wellness program’ means a program which—

‘‘(i) consists of any 3 of the wellness program components described in subsection (c),

‘‘(ii) which is certified by the Secretary of Health and Human Services, in consultation with the Secretary of Labor, as a qualified wellness program under this section.

‘‘(B) PROGRAMS MUST BE CONSISTENT WITH RESEARCH AND BEST PRACTICES.—

‘‘(i) IN GENERAL.—The Secretary of Health and Human Services shall not certify a program as a qualified wellness program unless the program—

‘‘(I) is consistent with evidence-based research and best practices, as identified by persons with expertise in employer health promotion and wellness programs,

‘‘(II) includes multiple, evidence-based strategies which are based on the existing and emerging research and careful scientific reviews, including those from Community Preventive Services, the Guide to Clinical Preventive Services, and the National Registry for Effective Programs, and

‘‘(III) includes any incentives which focus on employee populations with a disproportionate burden of health problems.

‘‘(ii) PERIODIC UPDATING AND REVIEW.—The Secretary of Health and Human Services shall establish procedures for periodic review and recertification of programs under this subsection. Such procedures shall require revisions of programs if necessary to ensure compliance with the requirements of this section and require updating of the programs to the extent the Secretary, in consultation with the Secretary of the Treasury and the Secretary of Labor, determines necessary to reflect new scientific findings.

‘‘(C) EMPLOYEE INPUT.—The opportunity for employees to participate in the management of any qualified wellness program to which this section applies.

‘‘(D) PARTICIPATION INCENTIVES.—

‘‘(i) IN GENERAL.—No credit shall be allowed under subsection (a) unless the Secretary of Health and Human Services, in consultation with the Secretary of Treasury and Secretary of Labor, as a part of any certification described in subsection (b), that each wellness program component of the qualified wellness program applies to all qualified employees of the employer. The Secretary of Health and Human Services shall prescribe rules under which an employee will not be treated as failing to meet the requirements of this subsection merely because the employer provides specialized programs for employees with specific health needs or unusual employment requirements or provides a pilot program to test new wellness strategies.

‘‘(ii) QUALIFIED EMPLOYEE.—For purposes of paragraph (1), the term ‘qualified employee’ means an employee who works an average of not less than 25 hours per week during the taxable year.

‘‘(E) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

‘‘(i) EMPLOYER AND EMPLOYEE.—

‘‘(A) PARTNERS AND PARTNERSHIPS.—The term ‘employee’ includes a partner and the term ‘employer’ includes a partnership.

‘‘(B) CERTAIN RULES TO APPLY.—Rules similar to the rules of section 25 shall apply.

‘‘(C) CERTAIN COSTS NOT INCLUDED.—Costs paid or incurred by an employer for food or health insurance shall not be taken into account under subsection (a).

‘‘(D) NO CREDIT WHERE WAIVER AWARDED.—No credit shall be allowable under subsection (a) with respect to any qualified wellness program of any taxpayer (other than an eligible employer described in subsection (f)(2)(A)) who receives a grant provided by the United States, a State, or a political subdivision of a State for use in connection with such program. The Secretary shall prescribe rules providing for the waiver of this paragraph with respect to any grant which does not constitute a significant portion of the funding of the qualified wellness program.

‘‘(ii) CREDIT PERIOD.—

‘‘(A) IN GENERAL.—The term ‘credit period’ means the period of 10 consecutive taxable years beginning with the year in which the qualified wellness program is first certified under this section.

‘‘(B) SPECIAL RULE FOR EXISTING PROGRAMS.—In the case of an eligible employer under subsection (a), the credit shall be allowable under subsection (a) beginning with any taxable year of such employer beginning after the date which is the first date on which the qualified wellness program is certified by the Secretary or the employer is required to make substantial modifications in the existing wellness program in which the qualified wellness program is first certified under this section.

‘‘(C) CONTROLLED GROUPS.—For purposes of paragraph (2), all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as a single employer.

‘‘(D) PORTION OF CREDIT MADE REFUNDABLE.—

‘‘(i) IN GENERAL.—In the case of an eligible employer under subsection (a), the aggregate amount of credits allowed to a taxpayer under subpart C shall be increased by the lesser of—

‘‘(I) the credit which would be allowed under subparagraph (A) if the taxpayer were treated as an eligible employer under subsection (a) and paragraph (2) of section 38(c), or
"(B) the amount by which the aggregate amount of credits allowed by this subpart (determined without regard to this subsection) would increase if the limitation imposed by this subsection were not in effect."

"(2) Eligible employer.—For purposes of this subsection, the term ‘eligible employer’ means—

(A) a State or political subdivision thereof, the District of Columbia, a possession of the United States, or an agency or instrumentality of any of the foregoing, or

(B) any organization described in section 501(c) of the Internal Revenue Code of 1986 which is exempt from taxation under section 501(a) of such Code.

"(3) Employer payroll taxes.—For purposes of this subsection—

(A) in general.—The term ‘employer payroll taxes’ means the taxes imposed by—

(i) section 3111(b), and

(ii) sections 3211(a) and 3221(a) (determined at a rate equal to the rate under section 3111(b)).

(B) Special rule.—A rule similar to the rule of section 24(d)(2)(C) shall apply for purposes of subparagraph (A).

(g) Termination.—This section shall not apply to any amount paid or incurred after December 31, 2017.

(b) Treatment as general business credit.—Subsection (b) of section 38 of the Internal Revenue Code of 1986 is amended by striking ‘‘plus’’ at the end of paragraph (35), by striking the period at the end of paragraph (36) and inserting ‘‘; plus’’, and by adding at the end the following:

‘‘(37) the wellness program credit determined under subsection 45S.’’

(c) Denial of double benefit.—Section 280C of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection—

‘‘(j) Wellness Program Credit.—

‘‘(1) in general.—No deduction shall be allowed for that portion of the costs paid or incurred by the employer to provide wellness program (within the meaning of section 45S) allowable as a deduction for the taxable year which is equal to the amount of the credit allowable for the taxable year under section 45S.

‘‘(2) Similar rule where taxpayer capitalizes rather than deducts expenses.—If—

(A) the amount of the credit determined for the taxable year under section 45S, exceeds

(B) the amount allowable as a deduction for such taxable year for a qualified wellness program, the amount chargeable to capital account for the taxable year for such expenses shall not be reduced by the amount of such excess.

‘‘(3) Controlled groups.—In the case of a corporation which is a member of a controlled group of corporations (within the meaning of section 41(1)(b) or a trade or business which is treated as being under common control with other trades or businesses (within the meaning of section 41(f)(1)), this subsection shall be applied under rules prescribed by the Secretary similar to the rules applicable under subparagraph (h)."

(d) Clerical amendment.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

‘‘Sec. 45S. Wellness program credit.’’

(e) Effective date.—The amendments made by this section shall be applied to taxable years beginning after the date of enactment of this Act.

(f) Outreach.—

(1) IN GENERAL.—The Secretary of the Treasury, in conjunction with the Director of the Centers for Disease Control and members of the public health community, shall conduct an outreach program to inform businesses about the availability of the wellness program credit under section 45S of the Internal Revenue Code of 1986 as well as to educate businesses on how to develop programs according to recognized and promising practices and on how to measure the success of implemented programs.

(2) Authorization of appropriations.—There are authorized to be appropriated such sums as are necessary to carry out the outreach program described in paragraph (1).

SEC. 212. EMPLOYER-PROVIDED OFF-PREMISES ATHLETIC FACILITIES.

(a) Treatment of fringe benefits.—Subparagraph (A) of section 132(j)(4) of the Internal Revenue Code of 1986 is amended to read as follows:

‘‘(A) in general.—Gross income shall not include—

(i) the value of any on-premises athletic facility provided by an employer to its employees, and

(ii) so much of the fees, dues, or membership expenses paid by an employer to an athletic or fitness facility described in subparagraph (C) on behalf of its employees as does not exceed $900 per employee per year.’’

(b) Athletic facilities described.—Paragraph (4) of section 132(j) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

‘‘(C) certain athletic or fitness facilities described.—For purposes of subparagraph (A)(iii), an athletic or fitness facility described in this subparagraph is a facility—

(i) which provides instruction in a program of physical exercise, offers facilities for the preservation, maintenance, encouragement, or development of physical fitness, or is the site of such a program of a State or local government;

(ii) which is not a private club owned and operated by its members;

(iii) which does not offer golf, hunting, sailing, or riding facilities;

(iv) whose health or fitness facility is not incidental to its overall function and purpose; and

(v) which is fully compliant with the State of jurisdiction and Federal anti-discrimination laws.’’

(c) Exclusion applies to highly compensated employees only if no discrimination.—Section 132(j)(1) of the Internal Revenue Code of 1986 is amended—

(1) by striking ‘‘Paragraphs (1) and (2) of subsection (a) and inserting ‘‘Subsections (a)(1), (a)(2), and (j)(4)’’; and

(2) by striking the heading thereof through ‘‘APPLIES’’ and inserting ‘‘CERTAIN EXCLUSIONS APPLY’’.

(d) Employer deduction for dues to certain athletic facilities.—

(1) in general.—Paragraph (3) of section 274(a) of the Internal Revenue Code of 1986 is amended by adding at the end the following new sentence: ‘‘The preceding sentence shall not apply to so much of the fees, dues, or membership expenses paid to an athletic or fitness facilities (within the meaning of section 132(j)(4)) as does not exceed $900 per employee per year.’’

(e) Effective date.—The amendments made by this section shall be applied to taxable years beginning after the date of enactment of this Act.

SEC. 213. TASK FORCE FOR THE PROMOTION OF BREASTFEEDING IN THE WORKPLACE.

(a) Establishment.—The Secretary of Health and Human Services and the Secretary of Labor, or their designees, shall convene a task force for the purpose of promoting breastfeeding among working mothers (referred to in this subsection as the ‘‘Task Force’’).

(b) Membership.—The Task Force shall be composed of members who are—

(1) expert staff from the Department of Labor with expertise in workforce issues;

(2) expert staff from the Department of Health and Human Services with expertise in the areas of breastfeeding and breastfeeding promotion;

(3) members of the United States Breastfeeding Committee;

(4) expert staff from the Department of Agriculture; and

(5) appointed by the Secretary of Health and Human Services and the Secretary of Labor, including—

(A) working mothers who have experience in working and breastfeeding; and

(B) representatives of the human resource departments of both large and small employers that have successfully promoted breastfeeding and breastmilk pumping support at work.

(c) Period of appointment; vacancies.—Members shall be appointed for the life of the Task Force. Any vacancy in the Task Force shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) Chair.—The Task Force shall be chaired jointly by the Secretary of Health and Human Services and the Secretary of Labor, or their designees.

(e) Duties of the Task Force.—

(1) Examination.—Consistent with the Department of Health and Human Services Blueprint for Action on Breastfeeding (2000), the Task Force shall examine the following issues:

(A) The challenges that mothers face with continuing breastfeeding when the mothers return to work after giving birth.

(B) The challenges that employers face in accommodating mothers who seek to continue to breastfeed or to express milk when the mothers re-enter the workforce, including different challenges that mothers of varying socio-economic status and in different professions may face.

(C) The benefits that accrue to mothers, babies, and to employers when they are able to continue to breastfeed or to express breastmilk at work after the mothers have re-entered the workforce.

(D) Federal and State statutes that may have the effect of reducing breastfeeding and breastfeeding retention rates among working mothers.

(2) Reports.—

(A) in general.—Not later than 1 year after the date of enactment of this section, the Task Force shall issue a public report with recommendations on the following:

(i) Steps that can be taken to promote breastfeeding among working mothers and to remove barriers to breastfeeding among working mothers.

(ii) Potential ways in which the Federal Government can work with employers to promote breastfeeding among working mothers.

(iii) Areas in which changes to existing Federal, State, or local laws would likely
have the effect of making it easier for working
mothers to breastfeed or would remove
impediments to breastfeeding that currently
exist in such laws.
(iv) Whether or not increased rates of
breastfeeding among working mothers would
likely have the result of reducing health care
costs among such mothers and their chil-
dren; and in particular, whether increased
rates of breastfeeding would be likely to re-
sult in lower Federal expenditures on health
care for such mothers and their children.
(v) Whether the Federal Government,
through increased efforts by Federal
agencies, or changes to existing Federal law,
can and should increase the Federal
Government’s ability to promote breastfeeding
among working mothers.

(B) COPY TO CONGRESS.—Upon completion
of the report described in subparagraph (A), the
Task Force shall submit a copy of the repor-
to the Committee on Health, Education,
Labor, and Pensions of the Senate, the Com-
mittee on Appropriations of the Senate, the
Committee on Education and the Workforce
of the House of Representatives, and the
Committee on Appropriations of the House
of Representatives.

(2) CONGRESSIONAL BUILDINGS.—The Archi-
tect of the Capitol, in coordination with
the Committee on Rules and Administration
of the Senate and the Committee on House
Administration of the House of Represen-
tatives, shall establish a program to apply
the requirements of section 403(q)(5)(H) of the
Federal Food, Drug, and Cosmetic Act (21
U.S.C. 343(q)(5)(H)) (as amended by paragraph
(1)) to—
(A) food that is served in restaurants or
other similar retail food establishments
that are located in Congressional buildings
and installations;
(B) food that is sold through vending ma-
chines that are operated in Congressional
buildings and installations;
(C) food that is served to individuals
in Congressional buildings and installations
pursuant to a contract with a private entity.

(3) POSTAL SERVICES.—The Task Force
may secure directly from
the head of any Federal department or agency
such information as the Task Force considers
advisable to carry out this section.

(4) DONATIONS.—The Task Force may ac-
cept, use, and dispose of donations of serv-
cices or property.

(g) OPERATING EXPENSES.—The operating
expenses of the Task Force, including travel
expenses for members of the Task Force,
shall be paid for from the general operating
expenses funds of the Secretary of Health
and Human Services and the Secretary of
Labor.

SEC. 214. IMPROVING HEALTHY EATING AND AC-
TIVITY-CENTRIC ENVIRONMENTS IN FEDERAL
WORKPLACES.

(a) MENU LABELING IN FEDERAL FOOD
ESTABLISHMENTS.

(1) IN GENERAL.—

(A) EXECUTIVE AND JUDICIAL BUILDINGS.—
Section 403(q) of the Federal Food, Drug,
and Cosmetic Act (21 U.S.C. 343(q)) is amended by
adding, at the end the following:
"(6)(A) The requirements of subparagraph
(5)(H) shall apply—
"(i) to a restaurant or similar retail food
establishment located in a Federal building
in the same manner as such subparagraph
applies to a restaurant or similar retail food
establishment that is part of a chain with 20
or more locations, as described in subpara-
graph (5)(H)(i); and
"(ii) to a person that operates a vending
machine which is located in a Federal build-
ing in the same manner as such subparagraph
applies to a person who is engaged in the business
of owning or operating 20 or more vending
machines, as described in subparagraph
(5)(H)(viii).
"(B) In this subparagraph, the term ‘Fed-
eral building’ means a building that is—
(i) owned by the head of the Federal agen-
cy (as defined in section 102 of title 40,
United States Code);
(ii) owned by the Federal Government;
and
(iii) located in a State, the District of Co-
lumbia, Puerto Rico, or a territory or possess-
ion of the United States;

(b) REIMBURSEMENT.—Subsection (a) may
be carried out by—
"(1) reimbursement to a State or political
subdivision of a State, the District of Colum-
bia, Puerto Rico, or a territory or possession
of the United States; or
"(2) a means other than reimbursement.

(c) REGULATIONS.—Subsection (a) shall be
conducted in accordance with such regula-
tions as the Administrator of General Serv-
ces may promulgate, with the approval of
the Director of the Office of Management
and Budget.

(d) USE OF AMOUNTS.—Amounts appro-
rated to a Federal agency for installation,
reimbursement, or maintenance, shall be avail-
able to carry out this section.

(2) CONGRESSIONAL BUILDINGS.—The Archi-
tect of the Capitol, in coordination with
the Committee on Rules and Administration
of the Senate, the Committee on House
Administration of the House of Represen-
tatives, and the Committee on Appropriations
of the House of Representatives, shall estab-
lish, by regulation, nutritional stan-
dards for all food products provided at
Federal buildings and installations (including
food products provided by contractors or
vending machines).

(b) USE OF AMOUNTS.—Amounts appro-
prated to a Federal agency for installation,
reimbursement, or maintenance, shall be avail-
able to carry out this section.

(c) REGULATIONS.—Subsection (a) shall be
conducted in accordance with such regula-
tions as the Administrator of General Serv-
ces may promulgate, with the approval of
the Director of the Office of Management
and Budget.

(d) USE OF AMOUNTS.—Amounts appro-
prated to a Federal agency for installation,
reimbursement, or maintenance, shall be avail-
able to carry out this section.

(c) LICENSING.—Nothing in this section in-
creases or enlarges the tort liability of the
Secretary of Health and Human Services,
except that, according to guidelines promul-
gated by the Secretary, under appropriate
circumstances, Federal employees of
organizations contracting with the Federal
Government for any injury to an in-
dividual or damage to property.

(2) CONGRESSIONAL BUILDINGS.—The Archi-
tect of the Capitol, in coordination with
the Committee on Rules and Administration
of the Senate, the Committee on House
Administration of the House of Represen-
tatives, and the Committee on Appropriations
of the House of Representatives, shall estab-
lish, by regulation, nutritional stan-
dards for all food products provided at
Federal buildings and installations (including
food products provided by contractors or
vending machines).

(b) USE OF AMOUNTS.—Amounts appro-
prated to a Federal agency for installation,
reimbursement, or maintenance, shall be avail-
able to carry out this section.

(c) REGULATIONS.—Subsection (a) shall be
conducted in accordance with such regula-
tions as the Administrator of General Serv-
ces may promulgate, with the approval of
the Director of the Office of Management
and Budget.

(d) USE OF AMOUNTS.—Amounts appro-
prated to a Federal agency for installation,
reimbursement, or maintenance, shall be avail-
able to carry out this section.

(c) LICENSING.—Nothing in this section in-
creases or enlarges the tort liability of the
Secretary of Health and Human Services,
except that, according to guidelines promul-
gated by the Secretary, under appropriate
circumstances, Federal employees of
organizations contracting with the Federal
Government for any injury to an in-
dividual or damage to property.

SEC. 301. GUIDELINES FOR REDUCTION IN SO-
DIUM CONTENT IN CERTAIN FOODS.

(a) IN GENERAL.—Each Federal agency
shall ensure that the sodium content of
food products
by subsection (c), is further amended by add-
ing the following:
"SEC. 598. ACCOMMODATIONS FOR BICYCLE
COMMUTERS.

(a) IN GENERAL.—Each Federal agency
shall install and maintain a bicycle storage
area and equipment (such as a bicycle rack)
and a shower for bicycle commuters at each
relevant parking structure that is—
"(1) under the control of the Federal agen-
cy;
"(2) owned by the Federal Government;
and
"(3) located in a State, the District of Co-
lumbia, Puerto Rico, or a territory or possess-
ion of the United States.

(b) REIMBURSEMENT.—Subsection (a) may
be carried out by—
"(1) reimbursement to a State or political
subdivision of a State, the District of Colum-
bia, Puerto Rico, or a territory or possession
of the United States; or
"(2) a means other than reimbursement.

(c) REGULATIONS.—Subsection (a) shall be
conducted in accordance with such regula-
tions as the Administrator of General Serv-
ces may promulgate, with the approval of
the Director of the Office of Management
and Budget.

(d) USE OF AMOUNTS.—Amounts appro-
prated to a Federal agency for installation,
reimbursement, or maintenance, shall be avail-
able to carry out this section.

(e) LIABILITY.—Nothing in this section in-
creases or enlarges the tort liability of the
Secretary of Health and Human Services,
except that, according to guidelines promul-
gated by the Secretary, under appropriate
circumstances, Federal employees of
organizations contracting with the Federal
Government for any injury to an in-
dividual or damage to property.

SEC. 302. GUIDELINES FOR REDUCTION IN SO-
DIUM CONTENT IN CERTAIN FOODS.

(a) IN GENERAL.—Not later than 180 days
after the date of enactment of this Act, the
Secretary of Health and Human Services shall promulgate regulations establishing guidelines for the reduction, over a 2 year period, in the sodium content of processed food and restaurant food following, as appropriate, the recommendations made by the Institute of Medicine report entitled “Strategies to Reduce Sodium Intake in the United States.”

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

(1) the term “processed food” has the meaning given such term in section 203(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1)); and

(2) the term “restaurant food” means food served in a single instance to individuals by a public nutritionist, a nonprofit organization, a trade association, or by allowing individual food entities, including other entities within the Department of Health and Human Services, such as the Centers for Medicare & Medicaid Services and the Health Resources and Services Administration, the Office of the National Coordinator for Health Information Technology, and the National Committee for Quality Assurance, to promote the adoption of interventions and tools developed under this section, particular in the training of health professionals; and

“focus on the particular needs of vulnerable populations such as the elderly, racial and ethnic minorities, children, individuals with limited English proficiency, and individuals with disabilities; and

“interest in health literacy that have direct applicability to—

(i) the provision of simplified, patient-centered written materials;

(ii) technology-based communication techniques;

(iii) consumer navigation services; and

(iv) the training of health professional providers;

“grant under this subsection shall use

(f) health literacy resources from

(A) a comprehensive and detailed description of the operations, activities, financial condition, and accomplishments of the Agency and the field of health literacy; and

(B) a description of how plans for the operation of the program for the succeeding fiscal year will facilitate achievement of the goals of the program.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection such sums as may be necessary for each of fiscal years 2012 through 2016.

(c) STATE HEALTH LITERACY GRANTS.—

(1) GRANTS.—The Director of the Agency shall award grants to eligible entities to facilitate State and community efforts to strengthen health literacy.

(2) USE OF FUNDS.—An entity receiving a grant under this subsection shall use amounts received under such grant to—

(i) monitor and strengthen health literacy within a State or community;

(ii) assist public and private entities in the State or community in coordinating and delivering health literacy services; and

(iii) encourage partnerships among State and local governments, community organizations, non-profit enterprises, academic institutions, and businesses to coordinate efforts to strengthen health literacy;
“(D) provide technical and policy assistance to State and local governments and service providers; and

“(E) monitor and evaluate programs conducted under this section.

“(3) REPORT.—Not later than September 30 of each fiscal year for which a grant is received by an entity under this section, the entity shall submit to the Director a report that describes the programs supported by the grant and the results of monitoring and evaluation of those programs.

“(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection for each of fiscal years 2012 through 2016.

“(b) INSTITUTE OF MEDICINE STUDY AND REPORT.

“(1) STUDY.—The Secretary of Health and Human Services shall seek to enter into a contract with the Institute of Medicine to conduct a study identifying opportunities within the Department of Health and Human Services to strengthen the health literacy of health care providers and health care consumers in accordance with the Patient Protection and Affordable Care Act (Public law 111–148).

“(2) REPORT.—A contract entered into under paragraph (1) shall include a provision requiring the Institute of Medicine, not later than 1 year after the date of enactment of this Act, to submit a report concerning the results of the study conducted under paragraph (1) to the Secretary of Health and Human Services and the appropriate committees of Congress.

“SEC. 306. DISALLOWANCE OF DEDUCTIONS FOR ADVERTISING AND MARKETING EXPENSES RELATING TO TOBACCO PRODUCT USE.

“(a) In General.—Part IX of subchapter B of chapter 1 of subtitle A of the Internal Revenue Code of 1986 (relating to items not deductible) is amended by adding at the end the following new item:

“(9) PAGANETIC EXPENSES RELATING TO TOBACCO PRODUCT USE.

“No deduction shall be allowed under this chapter for expenses relating to advertising or marketing of cigarettes, smokeless tobacco, pipe tobacco, or any other tobacco product. For purposes of this section, any term used in this section which is also used in section 280H shall have the same meaning given such term by section 5702.

“(b) CONFORMING AMENDMENT.—The table of sections of chapter 1 of subtitle A of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 280H the following new item:

“Sec. 280I. Disallowance of deduction for tobacco advertising and marketing expenses.”

“(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

“SEC. 307. INCENTIVES TO REDUCE TOBACCO USE.

“(a) Child Tobacco Use Surveys.—

“(1) ANNUAL PERFORMANCE SURVEY.

“(A) IN GENERAL.—Not later than August 31, 2012, and annually thereafter, the Secretary of Health and Human Services (referred to in this section as the “Secretary”) shall publish the results of an annual tobacco use survey, to be carried out not later than 18 months after the date of enactment of this Act and completed on an annual basis thereafter, to—

“(i) the percentage of all young individuals who used tobacco products within the 30-day period prior to the conduct of the survey involved;

“(ii) the percentage of young individuals who identify each brand of each type of tobacco product as the usual brand used within such 30-day period.

“(B) YOUNG INDIVIDUALS.—For the purposes of this section, the term “young individuals” means individuals who are under 18 years of age.

“(2) SIZING AND METHODOLOGY.

“(A) In General.—The survey referred to in paragraph (1) shall be conducted by the National Survey on Drug Use and Health or shall at least be comparable in size and methodology to the NSDUH that was completed in 2009 to measure the percentage of daily tobacco use by grade 9–12 students and high school seniors.

“(B) CONCLUSION ACCURATENESS.—A survey using the methodology described in subparagraph (A) shall be deemed conclusively proper, correct, and accurate for purposes of this section.

“(C) DEFINITION.—In this section, the term “National Survey on Drug Use and Health” or “NSDUH” means the annual nationwide survey of randomly selected individuals, aged 12 and older, conducted by the Substance Abuse and Mental Health Services Administration.

“(3) REDUCTION.—The Secretary, based on a comparison of the first annual tobacco product survey referred to in paragraph (1) and the most recent NSDUH referred to in paragraph (2)(A) completed prior to the date of this Act, shall determine the percentage reduction (if any) in youth tobacco use for each manufacturer of tobacco products.

“(4) PARTICIPATION IN SURVEY.—Notwithstanding any other provision of law, the Secretary may conduct a survey under this subsection involving minors if the results of such survey which are kept confidential and not disclosed.

“(b) TOBACCO USE REDUCTION GOAL AND NONCOMPLIANCE.

“(1) GOAL.—It shall be the tobacco use reduction goal that youth tobacco use be reduced by at least 5 percent or a level determined significantly sufficient by the Secretary to achieve the first annual tobacco use survey referred to in subsection (a)(2)(A) and the completion of the first annual cigarette survey (and such subsequent surveys as compared to the previous 3 years’ survey referred to in subsection (a)(1)).

“(2) NONCOMPLIANCE.—

“(A) INDUSTRY-WIDE PENALTY.—If the Secretary determines that the tobacco use reduction goal under paragraph (1) has not been achieved, the Secretary shall, not later than September 10, 2012, and September 10 of each year thereafter, impose an industry-wide penalty on the manufacturers of cigarettes in an amount that is in the aggregate equal to $3,000,000,000.

“(B) PAYMENT.—The industry-wide penalty imposed under subsection (a) shall be paid by each manufacturer based on the brand share among youth ages 12-17 (as determined by the survey described in subsection (a)(1)) as such percentage relates to the total amount to be paid by all manufacturers.

“(C) FINAL DETERMINATION.—The determination of the Secretary as to the amount and allocation of a surcharge under this section shall be final and the manufacturer shall pay such surcharge within 10 days of the date on which it is assessed. Such payment shall be retained by the Secretary pending final judicial review of what, if any, change in the surcharge is appropriate.

“(D) LIMITATION.—With respect to cigarettes, a manufacturer with a market share of 1 percent or less of youth tobacco use shall not be liable for the payment of a surcharge under this paragraph.

“(E) USE OF AMOUNTS.—Amounts collected under subparagraph (A) shall be deposited into the Prevention and Public Health Fund established under section 4002 of the Patient Protection and Affordable Care Act (42 U.S.C. 300u-11). Such funds shall remain available for transfer through September 30, 2016, for the first five years following their collection, subject to the terms and conditions of such section 4002.

“(3) PENALTIES NONDEDUCTIBLE.—The payment of penalties under this section shall not be considered to be an ordinary and necessary expense in carrying on a trade or business for purposes of the Internal Revenue Code of 1986 and shall not be deductible.

“(4) JUDICIAL REVIEW.—

“(A) AFTER PAYMENT.—A manufacturer of cigarettes may seek judicial review of any action under this section only after the assessment involved has been paid by the manufacturer to the Department of the Treasury and only in the United States District Court for the District of Columbia.

“(B) REVIEW BY ATTORNEY GENERAL.—Prior to the filing of an action by a manufacturer seeking judicial review under this section, the manufacturer shall notify the Attorney General of such intent to file and the Attorney General shall have 30 days in which to respond to the action.

“(c) ENFORCEMENT.—

“(1) INITIAL PENALTY.—There is hereby imposed an initial penalty on the failure of any manufacturer to make any payment required under this section not determined sufficient by the Secretary after the date on which such payment is due.

“(2) AMOUNT OF PENALTY.—The amount of the penalty imposed by paragraph (1) on any failure with respect to a manufacturer shall be an amount equal to 2 percent of the penalty owed under subsection (b) for each day during the noncompliance period.

“(3) NONCOMPLIANCE PERIOD.—For purposes of paragraph (1), the term “noncompliance period” means, with respect to any failure to make the surcharge payment required under this section, the period—

“(A) beginning on the due date for such payment; and

“(B) ending on the date on which such payment is paid in full.

“(4) LIMITATIONS.—No penalty shall be imposed by paragraph (1) on—

“(A) any failure to make a surcharge payment under this section during any period for which it is established to the satisfaction of the Secretary that none of the persons responsible for such failure knew or, exercising reasonable diligence, would have known, that such failure existed; or

“(B) any manufacturer that produces less than 1 percent of cigarettes used by youth in that year (as determined by the annual survey).

“SEC. 308. BAN ON DEDUCTION FOR TOBACCO ADVERTISING AND MARKETING EXPENSES.

“(a) IN GENERAL.—Section 162(k) of the Internal Revenue Code of 1986 (relating to items not deductible) is amended by inserting after such section the following new section:

“(k)(3) PENALTIES NONDEDUCTIBLE.—The pay-
TITLE IV—EXPANDED COVERAGE OF PREVENTIVE SERVICES

SEC. 401. REQUIRED COVERAGE OF PREVENTIVE SERVICES UNDER THE MEDICAID AND SCHOLARSHIP PROGRAM.

(a) MANDATORY COVERAGE.—Section 1905 of the Social Security Act (42 U.S.C. 1396a), as amended by section 4107(a)(1) of the Patient Protection and Affordable Care Act (Public Law 111–148), is amended—

(1) in subsection (a)(4)—
   (A) by striking “the” after “(I)” and “the” before “(D)” and “the” before “(E)” and before “and” the following new subparagraph: “;” and
   (B) by inserting “, a failure to meet” before the semicolon at the end of the following new subparagraph: “;” and
(2) by adding at the end the following new subsection:

"(ee) PREVENTIVE SERVICES.—For purposes of this paragraph, the preventive services described in section 1905(ee), after “emergency services” (as defined by the Secretary),".

(b) ELIMINATION OF COST-SHARING.—(1) Subsections (a)(2)(D) and (b)(2)(D) of section 1916 of the Social Security Act (42 U.S.C. 1396n-2) are each amended by inserting “preventive services described in section 1905(ee),” after “emergency services” (as defined by the Secretary),

(2) in paragraphs (1) and (2), by adding at the end the following:

"(G) Comprehensive workplace wellness program benefits that meet the requirements of section 1908 of the Patient Protection and Affordable Care Act (Public Law 111–148)."

(3) in paragraph (2), by adding at the end the following:

"(H) Preventive services benefits deemed an ‘A’ or ‘B’ service by the United States Preventive Services Taskforce.

(1) Immunizations that have in effect a recommendation from the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention with respect to the individuals involved.

(2) With respect to infants, children, and adolescents, evidence-informed preventive care and screenings provided for in the comprehensive guidelines supported by the Health Resources and Services Administration of the Department of Health and Human Services.;"

(c) CONFORMING AMENDMENT.—Effective as if included in the enactment of the Patient Protection and Affordable Care Act (Public Law 111–148), the provisions of, and amendments made by, section 4106 of such Act are repealed.

(d) INTERVAL PERIOD FOR INCLUSION OF NEW RECOMMENDATIONS IN STATE PLANS.—With respect to a recommendation issued on or after the date of enactment of this Act by an organization described in subsection (ee) of section 1905(ee) of the Social Security Act for a preventive service included in the recommendation, the Secretary of Health and Human Services shall establish a minimum interval period, which shall be not less than 12 months, between the date on which the recommendation is issued and the plan year for which a State plan for medical assistance under title XIX of the Social Security Act shall be required to include such preventive service.

(e) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by subsections (a) and (b) take effect on the date of enactment of this Act.

(2) Extension of effective date for state law amendment.—In the case of a State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) which the Secretary of Health and Human Services determines requires State legislation or State regulation in order for the plan to meet the additional requirements imposed by the amendments made by subsections (a) and (b), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the State legislature.

SEC. 402. COVERAGE FOR COMPREHENSIVE WORKPLACE WELLNESS PROGRAM AND PREVENTIVE SERVICES.

Section 399Z(a) of title 5, United States Code, is amended—

(1) in paragraph (1), by adding at the end the following:

"(G) Comprehensive workplace wellness program benefits that meet the requirements of section 1908 of the Patient Protection and Affordable Care Act (Public Law 111–148)."

(2) in paragraph (2), by adding at the end the following:

"(H) Preventive services benefits deemed an ‘A’ or ‘B’ service by the United States Preventive Services Taskforce.

(1) Immunizations that have in effect a recommendation from the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention with respect to the individuals involved.

(2) With respect to infants, children, and adolescents, evidence-informed preventive care and screenings provided for in the comprehensive guidelines supported by the Health Resources and Services Administration of the Department of Health and Human Services.;"

SEC. 403. HEALTH PROFESSIONAL EDUCATION AND TRAINING IN HEALTHY EATING.

Part Q of title III of the Public Health Service Act (42 U.S.C. 260o et seq.) is amended by adding after section 399Z and inserting the following:

"SEC. 399Z. HEALTH PROFESSIONAL EDUCATION AND TRAINING IN HEALTHY EATING.

"(a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, in collaboration with the Administrator of the Health Resources and Services Administration and the heads of other agencies, and in consultation with appropriate health professional associations, shall carry out a program to educate and train health professionals in effective strategies to—

(1) better identify patients at-risk of becoming overweight or obese or developing an eating disorder;

(2) detect overweight or obesity or eating disorders among a diverse patient population;

(3) counsel, refer, or treat patients with overweight or obesity or an eating disorder;

(4) educate patients and the families of patients on strategies to establish healthy eating habits and appropriate levels of physical activity; and

(5) assist in the creation and administration of effective strategies to prevent and treat obesity and eating disorder prevention efforts.

"(b) EATING DISORDER.—In this section, the term ‘eating disorder’ includes anorexia nervosa, bulimia nervosa, binge eating disorder, and eating disorders not otherwise specified, as defined in the fourth edition of the Diagnostic and Statistical Manual of Mental Disorders or any subsequent edition.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 2012 through 2016.

TITLE V—RESEARCH

SEC. 501. GRANTS FOR BODY MASS INDEX DATA ANALYSIS.

(a) ESTABLISHMENT.—The Secretary ofHealth and Human Services may make grants to not more than 20 eligible entities to analyze body mass index (hereinafter in this section referred to as “BMI”) measurements of children, ages 2 through 18.

(b) ELIGIBILITY.—An eligible entity for purposes of this section is a State (including the District of Columbia, the Commonwealth of Puerto Rico, and each territory of the United States) that has a statewide immunization information system that—

(1) has the capacity to store basic demographic information (including date of birth, gender, and geographical residence), height, weight, and immunization data for each resident of the State;

(2) is accessible to doctors, nurses, other health care and screenings provided for in the comprehensive guidelines supported by the Health Resources and Services Administration of the Department of Health and Human Services.

(c) USE OF FUNDS.—A State that receives a grant under this section shall use the grant for the following purposes:

(1) Analyzing the effectiveness of obesity prevention programs and wellness policies carried out in the State.

(2) Purchasing new computers, computer equipment, and software to upgrade computers to be used for a statewide immunization information system.

(3) The hiring and employment of personnel to maintain and analyze BMI data.

(4) The development and implementation of training programs for medical professionals to aid such professionals in taking BMI measurements and discussing such measurements with patients.

(5) Providing information to parents and legal guardians in accordance with subsection (e)(2).

(d) SELECTION CRITERIA.—In selecting recipients of grants under this section, the Secretary shall give priority to States in which a high percentage of public and private health care providers submit data to a statewide immunization information system that—

(1) contains immunization data for not less than 20 percent of the population of such State that is under the age of 18; and

(2) includes data collected from men and women who are of a wide variety of ages and who reside in a wide variety of geographic areas in a State (as determined by the Secretary).

(e) CONDITIONS.—As a condition of receiving a grant under this section, a State shall—

(1) ensure that BMI measurements will be recorded for children ages 2 through 18;

(2) in annual reports by a licensed physician, nurse, nurse practitioner, or physicians assistant during an annual physical examination, wellness visit, or similar visit with a health care provider; and

(3) in accordance with data collection protocols published by the American Academy of Pediatrics.
of Pediatrics in the 2007 Expert Committee Recommendations; and

(2) for each child in the State for whom such measurements indicate a BMI greater than the 95th percentile for such child's age and gender, provide to the parents or legal guardians of such child information on how to lower BMI and information on State and local obesity prevention programs.

(f) REPORTS.—

(1) REPORTS TO THE SECRETARY.—Not later than 5 years after the receipt of a grant under subsection (a) the State receiving such grant shall submit to the Secretary the following reports:

(A) a report containing an analysis of BMI data collected using the grant, including:

(i) the differences in obesity trends by gender, disability, geographic area (as determined by the State), and socioeconomic status within such State; and

(ii) the demographic groups and geographic areas most affected by obesity within such State;

(B) a report containing an analysis of the effectiveness of obesity prevention programs and State wellness policies, including—

(i) an analysis of the success of such programs and policies prior to the receipt of the grant; and

(ii) a discussion of the means to determine the most effective strategies to combat obesity in the geographic areas identified under subparagraph (A); and

(2) REPORT TO CONGRESS AND CERTAIN EXECUTIVE AGENCIES.—Not later than 1 year after the Secretary receives all the reports required pursuant to paragraph (1), the Secretary shall submit to the Secretary of Education, the Secretary of Agriculture, and to Congress a report that contains the following:

(A) an analysis of trends in childhood obesity, including how such trends vary across regions of the United States, and how such trends vary by gender and socioeconomic status.

(B) a description of any programs that—

(i) the Secretary has determined significantly lower childhood obesity rates for certain geographic areas in the United States, including urban, rural, and suburban areas; and

(ii) the Secretary recommends to be implemented by the States (including States that did not receive a grant under subsection (a)) to reduce childhood obesity rates in those areas;

(g) AUTHORIZATION OF APPROPRIATIONS.—

There is authorized to be appropriated to carry out this section such sums as may be necessary to carry out this section for each of fiscal years 2012 through 2016.

By Mr. HARKIN (for himself, Mr. JOHNSON of South Dakota, Ms. KLOBUCHAR, and Mr. FRANKEN):

S. 187

To amend chapter 329 of title 49, United States Code, to improve the expansion of the biofuels market to the Committee on Energy and Natural Resources.

Mr. HARKIN. Mr. President, I rise today to discuss the great importance of expanding the production and availability of biofuels, and the significant impact that biofuels continue to have on reducing our overall consumption of petroleum in the United States.

Our national energy situation continues to deteriorate. Because we import 60 percent of the petroleum we consume, our economy faces a constant threat from volatile petroleum prices as well as significant amounts of American wealth being transferred to foreign oil producers.

Moreover, more than two-thirds of our petroleum supply is consumed by our transportation sector, we can improve this situation by expanding the production and use of alternatives to petroleum-derived fuels.

Domestic biofuels have been by far our most successful alternative. Biofuels already displace close to 10 percent of our gasoline supplies, and they have the potential to make significantly larger contributions in the years ahead. Expanding biofuels production and use also will support economic recovery by creating jobs in the areas of feedstock production and delivery, fuels processing in bio refineries, and biofuels marketing.

The American people understand the need to reduce our dependence on foreign petroleum supplies. Congress has expressed broad agreement on two fundamental approaches—increasing efficiency of vehicles and increasing use of alternative fuels. We mandated more efficient vehicles through the Energy Independence and Security Act of 2007, EISA. That bill mandates a brisk expansion of biofuels production under the Renewable Fuels Standard. However, biofuels currently are facing critical market barriers. The most common form of biofuel, ethanol, can only be used as a 10 percent blend with gasoline in most highway vehicles. To enable such larger production and use levels, we need to expand the number of flex-fuel vehicles that can use higher blends, and we need to expand the number of filling stations selling those higher blends. We also need to enable more economic transport of higher volumes by supporting development of biofuel pipelines.

To these ends, I am proud today to introduce the Biofuels Market Expansion Act of 2011. This measure would require that at least 90 percent of new auto sales in the United States be flex fuel vehicles by 2016. It would also require major fuel distributors, those owning or branding more than 50 gaso line filling stations, to install increasing numbers of blender pumps at their retail filling stations, and it would authorize funding to support blender pump installations by smaller filling station operators. Finally, this measure would authorize guarantees for loans covering 80 percent of renewable fuel pipeline project costs.

The requirements and assistance authorized in this bill will ensure that the number of flex-fuel automobiles and the availability of alternative fuels are expanding in tandem with the production and use of biofuels in our national fuel supply over the next 8 years and beyond. This is a job-creating bill that reduces American dependence on foreign petroleum by giving Americans the option of choosing clean, domestically-produced fuels for their personal transportation needs in the future. These steps represent critical components in the transition of our energy systems away from fossil and imported fuels toward the benefits of greater reliance on sustainable domestic fuel sources.

Today, I urge my Senate colleagues to join us in taking action to boost the transition to a cleaner, more resilient, and more secure energy economy. I urge Senators’ support for this bill and its rapid enactment.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

The Senate agreed to the request, and the title of the bill was ordered to be printed in the RECORD, as follows:

S. 187

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Biofuels Market Expansion Act of 2011.”

SEC. 2. ENSURING RELIABILITY OF DUAL FUELED AUTOMOBILES AND LIGHT DUTY TRUCKS.

(a) IN GENERAL.—Chapter 329 of title 49, United States Code, is amended by inserting after section 32902 the following:

"§ 32902A. Requirement to manufacture dual fueled automobiles and light duty trucks

"(a) IN GENERAL.—Chapter 329 of title 49, United States Code, is amended by inserting after section 32902 the following:

"§ 32902A. Requirement to manufacture dual fueled automobiles and light duty trucks

"(b) EFFECTIVE DATE.—Section 32902A of this title shall apply to model year 2015 and each model year listed in the following table, each manufacturer shall ensure that the percentage of
automobiles and light duty trucks manufactured by the manufacturer for sale in the United States that are dual fueled automobiles and light duty trucks is not less than $10 per gallon in the 4-year period beginning on the date of installation of the blender pump, the eligible facility or retailer shall be required to repay to the Secretary an amount determined to be appropriate by the Secretary, but not more than the amount of the grant provided to the eligible facility or retailer under this subsection.

(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this subsection, to remain available until expended—

(A) $50,000,000 for fiscal year 2012;
(B) $100,000,000 for fiscal year 2013;
(C) $200,000,000 for fiscal year 2014;
(D) $300,000,000 for fiscal year 2015; and
(E) $350,000,000 for fiscal year 2016.

(b) INSTALLATION OF BLENDER PUMPS BY MAJOR FUEL DISTRIBUTORS ON OWNED STATIONS AND BRANDED STATIONS.—The Secretary shall ensure that each major fuel distributor described in this subparagraph installs blender pumps described in paragraph (4), September 30, 2012''.

(c) RULEMAKING.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Energy shall issue regulations to carry out this section.

(d) AMOUNT.—Section 1702(c) of the Energy Policy Act of 2005 (42 U.S.C. 16015(c)) is amended by adding at the end the following:

(1) by striking ''(c) AMOUNT.—Unless'' and inserting the following:

(1) In General.—The term ‘major fuel distributor’ means any person that sells or introduces gasoline into commerce in the United States through majority-owned stations or other facilities and in accordance with the regulations, is the purchaser to meet the requirement under subparagraph (C).

(2) TRADING CREDITS.—Subject to clause (iii), a major fuel distributor that has earned credits under clause (i) may sell the credits to another major fuel distributor to enable the purchaser to meet the requirement under subparagraph (C).

(iii) EXCEPTION.—A major fuel distributor may not use credits purchased under clause (ii) to fulfill the geographic distribution requirement in subparagraph (D).

SEC. 4. LOAN GUARANTEES FOR PROJECTS TO CONSTRUCT RENEWABLE FUEL PIPELINES.

(a) DEFINITIONS.—Section 1701 of the Energy Policy Act of 2005 (42 U.S.C. 16101) is amended by adding at the end the following:

(3) E–85 FUEL.—The term ‘E–85 fuel’ means a blend of gasoline approximately 85 percent of the content of which is ethanol.

(b) INSTALLATION OF BLENDER PUMPS BY MAJOR FUEL DISTRIBUTORS ON OWNED STATIONS AND BRANDED STATIONS.—The term ‘ethanol fuel blend’ means a blend of gasoline and ethanol, with a minimum of 0 percent and maximum of 85 percent of the content of which is denatured ethanol.

(c) RULEMAKING.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Energy shall issue regulations to carry out this section.

(d) AMOUNT.—Section 1702(c) of the Energy Policy Act of 2005 (42 U.S.C. 16015(c)) is amended by adding at the end the following:

(1) by striking ''(c) AMOUNT.—Unless'' and inserting the following:

(1) In General.—The term ‘major fuel distributor’ means any person that sells or introduces gasoline into commerce in the United States through majority-owned stations or other facilities and in accordance with the regulations, is the purchaser to meet the requirement under subparagraph (C).

(2) TRADING CREDITS.—Subject to clause (iii), a major fuel distributor that has earned credits under clause (i) may sell the credits to another major fuel distributor to enable the purchaser to meet the requirement under subparagraph (C).

(iii) EXCEPTION.—A major fuel distributor may not use credits purchased under clause (ii) to fulfill the geographic distribution requirement in subparagraph (D).

The Secretary shall construe the permit requirement described in paragraph (1) to meet the permit requirement described in paragraph (2).

The Secretary shall construe the permit requirement described in paragraph (2) to meet the permit requirement described in paragraph (1).

32902A. Requirement to manufacture dual fueled automobiles and light duty trucks.

(a) DEFINITIONS.—(1) The term ‘dual fueled automobiles and light duty trucks’ means automobiles and light duty trucks that are dual fueled (with gasoline and with any other fuel) in the United States that are dual fueled automobiles and light duty trucks (with gasoline and with any other fuel) in the United States that are dual fueled automobiles and light duty trucks.

(b) INSTALLATION OF BLENDER PUMPS BY MAJOR FUEL DISTRIBUTORS ON OWNED STATIONS AND BRANDED STATIONS.—The term ‘E–85 fuel’ means a blend of gasoline and ethanol, with a minimum of 0 percent and maximum of 85 percent of the content of which is ethanol.

(c) RULEMAKING.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Energy shall issue regulations to carry out this section.

(d) AMOUNT.—Section 1702(c) of the Energy Policy Act of 2005 (42 U.S.C. 16015(c)) is amended by adding at the end the following:

(1) by striking ''(c) AMOUNT.—Unless'' and inserting the following:

(1) In General.—The term ‘major fuel distributor’ means any person that sells or introduces gasoline into commerce in the United States through majority-owned stations or other facilities and in accordance with the regulations, is the purchaser to meet the requirement under subparagraph (C).

(2) TRADING CREDITS.—Subject to clause (iii), a major fuel distributor that has earned credits under clause (i) may sell the credits to another major fuel distributor to enable the purchaser to meet the requirement under subparagraph (C).

(iii) EXCEPTION.—A major fuel distributor may not use credits purchased under clause (ii) to fulfill the geographic distribution requirement in subparagraph (D).

SEC. 5. PRODUCTION CREDITS FOR EXCEEDING BLENDER PUMP INSTALLATION REQUIREMENT.

(a) EARNINGS AND PENALTY FOR APPLYING CREDITS.—If the percentage of the majority-owned stations and branded stations of the major fuel distributor at which the major fuel distributor installs blender pumps as described in paragraphs (b) and (c) in each of the fiscal years 2013 through 2016, including those years is not in excess of the percentage described in paragraph (b), the Secretary shall provide to the major fuel distributor a credit of $1,000 for each blender pump described in paragraph (b), which may be applied under this paragraph, which may be applied—

(iii) EXCEPTION.—A major fuel distributor may not use credits purchased under clause (ii) to fulfill the geographic distribution requirement in subparagraph (D).
(B) by adding at the end the following:

“(d) Installation of sufficient infrastructure to allow for the cost-effective deployment of clean energy technologies appropriate to each region of the United States, including the deployment of renewable fuel pipelines through loan guarantees in an amount equal to 80 percent of the cost;” and

(2) in subsection (a)(4), by inserting “, or, in the case of projects described in subsection (a)(4), September 30, 2012” before the period at the end.

(e) REFORMATIONS.—Not later than 90 days after the date of enactment of this Act, the Secretary of Energy shall promulgate such regulations as are necessary to carry out the amendments made by this section.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 14—HONORING THE VICTIMS AND HEROES OF THE SHOOTING ON JANUARY 8, 2011 IN TUCSON, ARIZONA

Mr. MCCAIN (for himself, Mr. KYL, Mr. REID of Nevada, Mr. MCCONNELL, Mr. AKAKA, Mr. AXOTLI, Mr. BARRASSO, Mr. BAUCUS, Mr. BEGICH, Mr. BENNET, Mr. BINGAMAN, Mr. BLUMENTHAL, Mr. BLUMENTHAL, Mr. BOOZMAN, Mrs. BOXER, Mr. BROWN of Massachusetts, Mr. BROWN of Ohio, Mr. BURBY, Ms. CANTWELL, Mr. CARSTEN, Mr. CARPER, Mr. CASEY, Mr. CHAMBLISS, Mr. COATS, Mr. COBURN, Mr. COCHRAN, Ms. COLLINS, Mr. CONRAD, Mr. COONS, Mr. CORKER, Mr. CORYN, Mr. CRAPO, Mr. DEMINT, Mr. DURBIN, Mr. ENSIGN, Mr. ENYED, Mrs. FEINSTEIN, Mr. FRANKEN, Mrs. GILLIBRAND, Mr. GRAHAM, Mr. GRASSLEY, Mrs. HAGAN, Mr. HARKIN, Mr. HATCH, Mr. HOEVEN, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. ISAKSON, Mr. JOHNS, Mr. JOHNSON of Wisconsin, Mr. JOHNSON of South Dakota, Mr. KERRY, Mr. KIRK, Ms. KLOBUCHAR, Mr. KOHL, Ms. LANDRIEU, Mr. LUTENBERG, Mr. LEARY, Mr. LEE, Mr. LEVIN, Mr. LIEBERMAN, Mr. LUGAR, Mr. MANCHIN, Mrs. MCCASKILL, Mr. MENENDEZ, Mr. MERKEL, Mr. MURPHY, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Nebraska, Mr. NELSON of Florida, Mr. PAUL, Mr. PORTMAN, Mr. PYOR, Mr. REED of Rhode Island, Mr. RISCH, Mr. ROBERTS, Mr. ROCKETTLE, Mr. RUBIO, Mr. SANDERS, Mr. SCHUMER, Mr. SESSIONS, Mrs. SHABEEH, Mr. SHELB, Mr. SNOWE, Ms. STAHEKNOW, Mr. TESTER, Mr. THUNE, Mr. TOOMEY, Mr. UDALL of Colorado, Mr. UDALL of New Mexico, Mr. VITTER, Mr. WARNER, Mr. WEBB, Mr. WHITEHOUSE, Mr. WICHER, and Mr. WYDEN) submitted the following resolution; which was ordered held at the desk:

S. RES. 14

Whereas on January 8, 2011, a gunman opened fire at a “Congress on your Corner” event hosted by Representative Gabrielle Giffords in Tucson, Arizona, killing 6 and wounding 13 others;

Whereas Christina-Taylor Green, the 9-year-old daughter of John and Roxanna Green, was born on September 11, 2001, and was a third grader with an avid interest in government who was elected to the student council at Mesa Verde Elementary School;

Whereas Dorothy Morris, who was 76 years old, attended the January 8 event with her husband, John, her son, Matt, and her daughter, Martha George, her husband of over 50 years with whom she had 2 daughters, and who was also critically injured as he tried to shield her from the shooter;

Whereas John Roll, a Pennsylvania native who was 63 years old, began his professional career as a government legal clerk and was appointed to the Federal bench in 1991, and became chief judge for the District of Arizona in 2006, was a devoted husband to his wife Maureen, father to his 3 sons, and grandfather to his 5 grandchildren, and heroically attempted to shield Ron Barber from additional gunfire;

Whereas Phyllis Schneck, a proud mother of 3, grandmother of 7, and great-grandmother from New Jersey, was spending the winter in Arizona, and was a 79-year-old church volunteer and New York Giants fan; and

Whereas Dorwan Stoddard, a 76-year-old retired construction worker and volunteer at the Mountain Avenue Church of Christ, is credited with shielding his wife Mary, a friend whom he married while they were in their 60s, who was also injured in the shooting;

Whereas Gabriel Matthew Zimmerman, who was 30 years old and engaged to be married, served as Director of Community Outreach to Representative Gabrielle Giffords, and was a social worker before serving with Representative Giffords;

Whereas Representative Gabrielle Giffords was a target of this attack, and was critically injured;

Whereas 13 others were also wounded in the shooting, including Ron Barber and Pamela Simon, both staffers to Representative Giffords; and

Whereas several individuals, including Patricia Maisch, Army Col. Bill Badger (Retired), who was also wounded in the shooting, Roger Salzgeber, Joseph Zamudio, Daniel Hernandez, Jr., Anna Bails, and Dr. Steven Rayle helped apprehend the gunman and assist the injured, thereby risking their lives;

Whereas Christina-Taylor Green, Dorothy Morris, Phyllis Schneck, Dorwan Stoddard, and Gabriel Matthew Zimmerman

Whereas Christina-Taylor Green, the 9-year-old daughter of John and Roxanna Green, was born on September 11, 2001, and was a third grader with an avid interest in American government who was elected to the student council at Mesa Verde Elementary School;

Whereas Dorothy Morris, who was 76 years old, attended the January 8 event with her husband, John, her son, Matt, and her daughter, Martha George, her husband of over 50 years with whom she had 2 daughters, and who was also critically injured as he tried to shield her from the shooter;

Whereas John Roll, a Pennsylvania native who was 63 years old, began his professional career as a government legal clerk and was appointed to the Federal bench in 1991, and became chief judge for the District of Arizona in 2006, was a devoted husband to his wife Maureen, father to his 3 sons, and grandfather to his 5 grandchildren, and heroically attempted to shield Ron Barber from additional gunfire;

Whereas Phyllis Schneck, a proud mother of 3, grandmother of 7, and great-grandmother from New Jersey, was spending the winter in Arizona, and was a 79-year-old church volunteer and New York Giants fan; and

Whereas Dorwan Stoddard, a 76-year-old retired construction worker and volunteer at the Mountain Avenue Church of Christ, is credited with shielding his wife Mary, a friend whom he married while they were in their 60s, who was also injured in the shooting;

Whereas Gabriel Matthew Zimmerman, who was 30 years old and engaged to be married, served as Director of Community Outreach to Representative Gabrielle Giffords, and was a social worker before serving with Representative Giffords;

Whereas Representative Gabrielle Giffords was a target of this attack, and was critically injured;

Whereas 13 others were also wounded in the shooting, including Ron Barber and Pamela Simon, both staffers to Representative Giffords; and

Whereas several individuals, including Patricia Maisch, Army Col. Bill Badger (Retired), who was also wounded in the shooting, Roger Salzgeber, Joseph Zamudio, Daniel Hernandez, Jr., Anna Bails, and Dr. Steven Rayle helped apprehend the gunman and assist the injured, thereby risking their lives for the safety of others. It is fitting and proper to commend them for their bravery: Now, therefore, be it Resolved, That the Senate—

(1) condemns in the strongest possible terms the horrific attack which occurred at the “Congress on your Corner” event hosted by Representative Gabrielle Giffords in Tucson, Arizona, on January 8, 2011; and

(2) offers its heartfelt condolences to the shooting, including Ron Barber and Pamela Simon, both staffers to Representative Giffords; and

(3) recognizes the service of the first responders who raced to the scene and the health care professionals who tended to the victims of this attack, and who continued to work through the night to tend to the victims; and

(4) recognizes the service of the first responders who raced to the scene and the health care professionals who tended to the victims of this attack, and who continued to work through the night to tend to the victims; and

(5) reaffirms the bedrock principle of American democracy and representative government, enshrined in the First Amendment of the Constitution and which Representative Gabrielle Giffords herself read in the Hall of the House of Representatives on January 6, 2011, of “the right of the people peaceably to assemble, and to petition the Government for a redress of grievances”;

(6) recognizes the bravery and quick thinking exhibited by those individuals who pre-vented the gunman from potentially taking more lives and helped to save those who had been wounded;

(7) recommends to the Secretary of the Air Force that the Gunnery Award be presented to Representative Gabrielle Giffords for her service and leadership of the Government for a redress of grievances;

(8) stands firm in its belief in a democracy in which all can participate and in which intimidation and threats of violence cannot silence the voices of any American;

(9) honors the service and leadership of Representative Gabrielle Giffords, a distin-guished member of the House of Representa-tives, as she courageously fights to recover; and

(10) when adjourning today, shall do so out of respect to the victims of this attack.


Mr. INOUYE (for himself and Mr. COCHRAN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. Res. 15

Whereas convenient care clinics are health care facilities located in high-traffic retail outlets that provide affordable and accessible care to patients who might otherwise be delayed or unable to schedule an appointment with a traditional primary care provider;

Whereas millions of people in the United States do not have a primary care provider, and there is a worrisome primary care short-age that will prevent many people from obtaining one in the future;

Whereas convenient care clinics have provided an accessible alternative for more than 15,000,000 people in the United States since the first clinic opened in 2000, continue to expand, and are rapidly growing, consisting of approximately 1,100 clinics in 35 States;

Whereas convenient care clinics follow rigid industry-wide quality of care and safety standards;

Whereas convenient care clinics are staffed by highly qualified health care providers, including advanced practice nurses, physician assistants, and physicians;

Whereas convenient care clinicians all have advanced education in providing quality health care for common episodic ailments including cold and flu, skin irritation, and muscle strains or sprains, and can also provide immunizations, physicals, and preventive health screenings;

Whereas convenient care clinics are proven to be a cost-effective alternative to similar treatment obtained in physician offices, urgent care, or emergency departments; and

Whereas convenient care clinics complement traditional medical service providers by providing extended weekday and weekend hours without the need for an appointment, short wait times, and visits that generally last only 15 to 20 minutes: Now, therefore, be it Resolved, That the Senate—

(1) designates the week of August 1 through August 7, 2011, as “National Convenient Care Clinic Week”;

(2) recognizes the goals and ideals of National Convenient Care Clinic Week to raise awareness of the need for accessible and

S. Res. 15
(c) This paragraph may be waived or sus-
pended in the subcommittee or committee
only by an affirmative vote of 7 of the Mem-
bers of the subcommittee or committee. An
affirmative vote of 7 of the Members of the
subcommittee or committee shall be re-
quired to sustain an appeal of the ruling of
the Chair on a point of order raised under
this paragraph.

(d)(1) It shall not be in order in the Sen-
ate to proceed to a legislative matter if the
legislative matter was proceeded to in a sub-
committee or committee in violation of this
paragraph.

(2) This subparagraph may be waived or
suspended in the Senate only by an affirm-
ative vote of 7 of the Members, duly chosen
and sworn. An affirmative vote of 7 of the
Members of the Senate, duly chosen and
sworn, shall be required in the Senate to sus-
tain an appeal of the ruling of the Chair on
a point of order raised under this subpara-
graph.

(e) In this paragraph, the term ‘legisla-
tive matter’ means any bill, joint resolution,
conference report, or substitute amendment but does not include perfecting changes.

(b) Senate.—Rule XVII of the Standing
Rules of the Senate is amended by inserting
at the end thereof the following:

6. (a) It shall not be in order in the Senate
to proceed to any legislative matter unless
the legislative matter and a final budget
scoring by the Congressional Budget Office
for the legislative matter has been publically
available on the Internet as provided in sub-
paragraph (b) in searchable form 72 hours
(excluding Saturdays, Sundays, and holidays
except when the Senate is in session on such
day) prior to proceeding.

(b) With respect to the requirements of
subparagraph (a):

(1) the legislative matter shall be avail-
able on the official website of the committee
with jurisdiction over the subject matter of
the legislative matter; and

(2) the final score shall be available on
the official website of the Congressional
Budget Office.

(c) This paragraph may be waived or sus-
pended in the Senate only by an affirmative
vote of 7 of the Members, duly chosen
and sworn. An affirmative vote of 7 of the
Members of the Senate, duly chosen and
sworn, shall be required in the Senate to sustain
an appeal of the ruling of the Chair on a point
of order raised under this paragraph.

(d) In this paragraph, the term ‘legisla-
tive matter’ means any bill, joint resolution,
conference report, or substitute amendment but does not include perfecting changes."

SEC. 2. PROTECTION OF CLASSIFIED INFORMA-
TION.

Nothing in this resolution or any amend-
ment made by it shall be interpreted to re-
quire or permit the declassification or post-
publication of classified information on the
Internet as provided in subparagraph (b) in
searchable form 72 hours (excluding Satur-
days, Sundays, and holidays except when the
Senate is in session on such a day) prior to pro-
ceeding.

(b) With respect to the requirements of
subparagraph (a):

(1) the legislative matter shall be avail-
able on the official website of the com-
mittee; and

(2) the final score shall be available on
the official website of the Congressional
Budget Office.

S. RES. 16

Resolved.

SECTION 1. PUBLIC AVAILABILITY OF LEGISLA-
TION AND THE COST OF THAT LEGIS-
LATION.

(a) Committees.— Rule XXVI of the Stand-
ing Rules of the Senate is amended by insert-
ing at the end thereof the following:

14. No Committee, subcommittee, or com-
munity shall be required to report legisla-
tive matter unless the legislative matter
dated in a final budget scoring by the Con-
gressional Budget Office for the legislative
matter has been publically available on the
Internet as provided in subparagraph (b) in
searchable form 72 hours (excluding Sat-
days, Sundays, and holidays except when the
Senate is in session on such a day) prior to pro-
ceeding.

(b) With respect to the requirements of
subparagraph a:

(1) the legislative matter shall be avail-
able on the official website of the com-
mittee; and

(2) the final score shall be available on
the official website of the Congressional
Budget Office.

S. RES. 17

Whereas military families, through their
sacrifices and dedication to the United
States and its values, represent the bedrock
upon which the United States was founded
and upon which the country continues to
rely in these perilous and challenging times:
Now, therefore, be it

Resolved. That the Senate—

(1) designates November 2011 as “National
Military Family Month”; and

(2) encourages the people of the United
States to observe National Military Family
Month with appropriate ceremonies and
activities.

Whereas the freedom to practice religion
and to express religious thought is acknowl-
edged to be a fundamental and unalienable
right belonging to all individuals;

Whereas the United States was founded on
the principle of freedom of religion and
freedom from religion;

Whereas the Framers intended that the
Federal Government would prohibit the Fed-
eral Government from en-
acting any law that favors one religious
denomination over another, not prohibit any
mention of religion or reference to God in
civic dialogue;

Whereas in 1883 the Supreme Court held in
Marsh v. Chambers, 463 U.S. 783, that the
practice of opening legislative sessions with
prayer has become part of the fabric of our
social and involving divine guidance on a
public body entrusted with making the laws
is not a violation of the Establishment
Clause of the First Amendment, but rather is
simply a tolerable acknowledgment of beliefs
widely held among the people of the Nation;

Whereas a voluntary prayer in elected bodies
should not be limited to prayer in State leg-
islatures and Congress;
WHEREAS school boards are deliberative bodies of adults, similar to a legislature in that they are elected by the people, act in the public interest, and hold sessions that are open to the public for voluntary attendance; and

WHEREAS voluntary prayer by an elected body should be protected under law and encouraged in society because voluntary prayer has become a part of the fabric of our society, voluntary prayer acknowledges beliefs widely held among the people of the Nation, and the Senate has held that it is not a violation of the Establishment Clause for a public body to invoke divine guidance: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes that prayer before school board meetings is a protected act in accordance with the fundamental principles upon which the Nation was founded; and

(2) expresses support for the practice of prayer at the beginning of school board meetings.

SENATE RESOLUTION 19—TO REQUIRE THAT A DESCRIPTIVE SUMMARY OF EACH PROVISION OF ANY LEGISLATIVE MATTER BE AVAILABLE 72 HOURS BEFORE CONSIDERATION BY ANY SUBCOMMITTEE OR COMMITTEE OF THE SENATE OR ON THE FLOOR OF THE SENATE

Mr. ENSIGN submitted the following resolution, which was referred to the Committee on Rule and Administration:

Resolved, SECTION 1. PUBLIC AVAILABILITY OF A DESCRIPTIVE SUMMARY OF EACH PROVISION OF LEGISLATION.

(a) Committees.—Rule XXVI of the Standing Rules of the Senate is amended by inserting at the end thereof the following:

"(e) In this paragraph, the term 'legislative matter' means any bill, joint resolution, concurrent resolution, conference report, or substitute amendment.

SEC. 2. PROTECTION OF CLASSIFIED INFORMATION.

Nothing in this resolution or any amendment made by this resolution shall be interpreted to require or permit the declassification or posting on the Internet of classified information in the custody of the Senate. Such classified information shall be made available to Members in a timely manner as appropriate under existing laws and rules.

SENATE RESOLUTION 20—EXPRESSING THE SENSE OF THE SENATE THAT THE UNITED STATES SHOULD IMMEDIATELY APPROVE THE UNITED STATES-KOREA FREE TRADE AGREEMENT, THE UNITED STATES-COLOMBIA TRADE PROMOTION AGREEMENT, AND THE UNITED STATES-PANAMA TRADE PROMOTION AGREEMENT

Mr. JOHANNS (for himself, Mr. GRASSLEY, Mrs. HUTCHISON, Mr. ROBERTS, Mr. BOOZMAN, Mr. CORYN, Mr. PORTMAN, Mr. INHOFE, Mr. ENZI, Mr. LUGAR, Mr. WICKER, and Mr. CHAMBLISS) submitted the following resolution; which was referred to the Committee on Finance:

Resolved, WHEREAS the United States has signed free trade agreements with South Korea, Colombia, and Panama, but Congress has not approved the United States-Colombia Trade Promotion Agreement;

WHEREAS the United States-Columbia Trade Promotion Agreement will create 3,693 jobs;

WHEREAS, in 2010, more than 90 percent of exports from Colombia to the United States entered the United States duty-free under the Andean Trade Preference Act (19 U.S.C. 2201 et seq.) and the Generalized System of Preferences under title V of the Trade Act of 1974 (19 U.S.C. 2461 et seq.);

WHEREAS, according to the United States International Trade Commission, goods valued at $1,700,000,000 worth of farm products to Colombia already enter the United States from Colombia in 2008, an increase from $1,600,000,000 in 2002;

WHEREAS, according to the Circular of the United States Trade Representative, more than 80 percent of consumer and industrial products exported from the United States to Colombia will enter Colombia duty free as a result of the United States-Colombia Trade Promotion Agreement entering into force and all remaining tariffs on such products will be eliminated within 10 years after the Agreement enters into force;

WHEREAS, according to the Office of the United States Trade Representative, the primary exports from the United States to Colombia in 2008 were $3,150,000,000 in machinery, $974,000,000 in organic chemicals, $969,000,000 in corn and wheat cereals, and $950,000,000 in electrical machinery;

WHEREAS, according to the Office of the United States Trade Representative, Colombia is the 15th largest market for farm products exported from the United States, with the United States exporting almost $1,700,000,000 worth of farm products to Colombia in 2008;

WHEREAS, according to the Department of Agriculture, 99.9 percent of agricultural products imported into the United States from Colombia already enter the United States duty-free, but no agricultural products exported from the United States to Colombia currently enter Colombia duty-free;
Whereas, according to the American Farm Bureau Federation, the United States–Colombia Trade Promotion Agreement would increase sales of agricultural products produced in the United States by $910,000,000 each year;

Whereas, according to the Department of Agriculture, more than half of agricultural products exported from the United States to Colombia are sales of Colombia duty-free immediately after the United States–Colombia Trade Promotion Agreement enters into force and all remaining tariffs on such products will be phased out over time;

Whereas the United States and Panama, after 10 rounds of negotiations, signed the United States–Panama Trade Promotion Agreement on December 16, 2006;

Whereas the United States views its long-standing bilateral relationship with Panama;

Whereas the National Assembly of Panama ratified the United States–Panama Trade Promotion Agreement by a vote of 58 to 4 on July 11, 2011;

Whereas 88 percent of United States commercial and industrial exports will enter Panama duty-free immediately after the United States–Panama Trade Promotion Agreement enters into force and all remaining tariffs on such exports will be phased out over 10 years;

Whereas more than 60 percent of exports of agricultural products from the United States will enter Panama duty-free immediately after the United States–Panama Trade Promotion Agreement enters into force and all remaining tariffs on agricultural products will be phased out over 20 years;

Whereas, according to the United States International Trade Commission, the primary effect of the implementation of the United States–Panama Trade Promotion Agreement will be to increase exports from the United States to Panama because 96 percent of imports from Panama already enter the United States duty-free; and

Whereas concerns about Panama’s alleged position as a “tax haven” have been addressed with the November 30, 2010, signing of a United States–Panama Tax Information Exchange Agreement, which permits the competent authorities of the United States and Panama to request information on most taxes to better increase transparency in an attempt to combat illegal financial transactions, including those linked to drug smuggling and money laundering; Now, therefore, be it

Resolved, That—

(1) the Senate recognizes that the implementation of the United States–Korea Free Trade Agreement, the United States–Colombia Trade Promotion Agreement, and the United States–Panama Trade Promotion Agreement will—

(A) create jobs in the United States;

(B) increase export opportunities for businesses and agricultural producers in the United States; and

(C) further develop cross-cultural business relationships between the United States and South Korea, Colombia, and Panama, respectively; and

(2) it is the sense of the Senate that it is in the security, economic, and diplomatic interests of the United States to enhance relationships with South Korea, Colombia, and Panama, respectively, by immediately approving the United States–Korea Free Trade Agreement, the United States–Colombia Trade Promotion Agreement, and the United States–Panama Trade Promotion Agreement.
if the Senate subsequently again votes against closing debate under subparagraph (b), the procedures under this subparagraph shall apply.”.

SENATE RESOLUTION 22—CONDEMNING THE NEW YEAR’S DAY ATTACK ON THE COPTIC CHRISTIAN COMMUNITY IN AL-FAYYUM, EGYPT AND URGING THE GOVERNMENT OF EGYPT TO FULLY INVESTIGATE AND PROSECUTE THE PERPETRATORS OF THIS HEINOUS ACT

Mr. MENENDEZ (for himself, Mr. DURBIN, Mr. WHITEHOUSE, Mr. WICKER, Mr. CARDIN, Mr. INHOFE, Mr. LAUTENBERG, Mr. LEVIN, Mr. CASEY, Mr. JOHNSON of South Dakota, Mrs. BOXER, and Mr. KYL) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 22

Whereas Coptic Christians are a native Egyptian population and the Coptic Orthodox Church of Alexandria was founded by the Evangelist St. Mark the Apostle in approximately 42 A.D. and is the oldest Christian church in Africa;

Whereas Copts in Egypt constitute the largest Christian community in the Middle East and the largest Christian minority group in the region;

Whereas Coptic Christians account for at least 9 percent of Egypt’s population of 80,000,000 and number more than 3,000,000 outside of Egypt, including 1,000,000 in the United States;

Whereas, on New Year’s Day 2011, a suicide bombing attacking Coptic Christians blew himself up in front of the Saint George and Bishop Peter Church in Alexandria, Egypt killing at least 21 people and injuring almost 100 others;

Whereas President Barack Obama and other world leaders have condemned the attack and called for its perpetrators to “be brought to justice for this barbaric and heinous act”;

Whereas the head of Egypt’s Coptic Christian community, Pope Shenouda III, has called on the Egyptian government to increase security for the Coptic Christian community and to reach agreements over the building and repairing of churches, including the adoption of a single law applicable to both churches and mosques; and

Whereas the freedom of religion is central to the ability of people to live together and must be upheld by the laws and practices of every democratic nation; Now, therefore, be it

Resolved, That the Senate—

(1) upon the New Year’s Day 2011 attack on the Saint George and Bishop Peter Church in Alexandria, Egypt;

(2) expresses its deep condolences to the Coptic Christian community who suffered from this attack and lost their loved ones and to all Egyptians who have suffered from terrorist attacks;

(3) calls on President Hosni Mubarak and the Government of Egypt to continue to fully investigate the bomb attack and to lawfully prosecute the perpetrators of this heinous act;

(4) calls on President Hosni Mubarak and the Government of Egypt to continue to enhance security for the Coptic Christian community to ensure in law and practice religious freedom and equality of treatment for all people in Egypt;

(5) calls on the President to work with the Government of Egypt to identify the perpetrators of the New Year’s Day attack; and

(6) calls on the Secretary of State to address the issues of religious freedom and equality of treatment for all people in Egypt with the Government of Egypt.

SENATE RESOLUTION 23—TO PROHIBIT UNAUTHORIZED EARMARKS

Mr. INHOFE (for himself and Mr. MCCAIN) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 23

Resolved, SECTION 1. PROHIBITION ON UNAUTHORIZED EARMARKS.

(a) In General.—It shall not be in order to consider a bill, joint resolution, conference report, or amendment that provides for an earmark.

(b) Supermajority.—

(1) Waiver.—The provisions of subsection (a) may be waived or suspended in the Senate only by the affirmative vote of three-fourths of the Members, duly chosen and sworn.

(2) Appeal.—An appeal in the Senate from the decisions of the Chair relating to any provision of this section shall be limited to 1 hour, to be equally divided between, and controlled by, the Members of the majority and minority of the measure. An affirmative vote of three-fourths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

(c) Earmark Defined.—In this resolution, the term ‘‘earmark’’ means a provision or report language included primarily at the request of a Senator or Member of the House of Representatives providing or recommending a specific amount of discretionary budget authority, credit authority, or other spending authority for a contract, loan, loan guarantee, grant, loan authority, or other expenditure with or to an entity, or targeted to a specific State, locality, or congressional district unless the provision or language—

(1) is specifically authorized by an appropriate congressional authorizing committee of jurisdiction;

(2) meets funding eligibility criteria established by an appropriate congressional authorizing committee of jurisdiction by statute; or

(3) is awarded through a statutory or administrative formula-driven or competitive award process.

SENATE RESOLUTION 24—TO PROHIBIT A STANDING ORDER TO GOVERN EXTENDED DEBATE

Mr. MERKLEY (for himself and Mr. UDALL of New Mexico) submitted the following resolution; which was submitted and read:

S. RES. 24

Resolved, SECTION 1. STANDING ORDER FOR EXTENDED DEBATE.

(a) Standing Order.—This section shall be a standing order of the Senate.

(b) Rules for Extended Debate.—

(1) In General.—If a question to close debate on a measure, motion, or other matter is decided in the negative and a majority of senators present and voting have voted to bring debate to a close, the extended debate procedures under this section shall be in order at any time if that measure, motion or other matter has continued as the only pending business subsequent to the vote against closing debate.

(2) Closing Debate.—Under the circumstances described in subparagraph (1), it shall be in order for the Majority Leader or his designee to move to bring debate on the pending measure, motion, or other matter to close on the grounds that no Senator seeks recognition to debate the matter. Immediately after the motion is made and before putting the question thereon, the Presiding Officer shall immediately inquire whether any Senator seeks recognition for the purpose of debating the matter on which the Senate had previously voted against closing debate. If a Senator seeks recognition for that purpose, the Presiding Officer shall announce that the Senate is proceeding under extended debate and shall recognize the Senator who seeks recognition for debate. After the Presiding Officer’s announcement under the preceding sentence the Senate shall continue to proceed under extended debate subject to paragraph (3).

(3) Extended Debate.—

(A) In General.—If the Senate enters into extended debate under this paragraph, no dilatory motions, motions to suspend any rule or any part thereof, nor dilatory quorum calls shall be entertained.

(B) Continuation of Proceedings.—If during extended debate the proceedings described in either subparagraph (C), (D), or (E) occur and unless the Majority Leader or his designee determines that no Senator seeks recognition to debate the measure, the Senate shall proceed immediately to vote on that motion or to vote at a time designated by the Majority Leader or his designee within the next four calendar days of Senate session. When voted on, that motion shall be decided by a majority of Senators chosen and sworn.

(C) Debate Ends.—If, at any point during extended debate when no Senator is recognized, no Senator seeks recognition, the Presiding Officer shall renew the inquiry as to whether a Senator seeks recognition and shall recognize a Senator who seeks recognition for the purpose of debate. If no Senator then seeks recognition (or if no Senator sought recognition in response to the Presiding Officer’s inquiry under paragraph (2), the Senate shall dispose of the motion of the Majority Leader (or his designee) to bring debate to a close pursuant to paragraph (2), in the manner specified in subparagraph (B).

(D) Quorum Calls.—

(1) Question.—If, at any point during extended debate, a Senator having been recognized raises a question of the presence of a quorum, the Presiding Officer shall renew the inquiry as to whether a Senator seeks recognition, and shall recognize a Senator who seeks recognition for debate.

(2) Disposition.—If no Senator then seeks recognition for debate under clause (1)—

(I) the Presiding Officer shall direct the Clerk to call the roll; and

(II) if upon the establishment of a quorum, the Senate shall dispose of the motion of the Majority Leader (or his designee) to bring debate to a close pursuant to paragraph (2) in the manner specified in subparagraph (B); and

(III) if the Senate adjourns for lack of a quorum, then when the Senate next convenes in the morning hour or any period for morning business is expired or is deemed to be expired, the Senate shall dispose of the motion of the Majority Leader (or his designee) to bring debate to a close pursuant to paragraph (2) in the manner specified in subparagraph (B).

(E) Motions.—

(1) In General.—If at any point during extended debate a Senator having been recognized moves to adjourn, recess, postpone the
that innovative proposals to create new American jobs must be enacted in order to invest in the economic recovery, but the current tax structure gives them more incentive to leave those earnings overseas; Whereas Congress passed section 422 of the American Jobs Creation Act of 2004, which allows for a temporary repatriation of foreign earnings at a lower tax rate to encourage companies to bring their overseas earnings back to invest in this country during this downturn; Whereas more than $300,000,000,000 in foreign earnings was returned to the United States as a result of section 422 of the American Jobs Creation Act of 2004; and Whereas $18,000,000,000 in additional revenue was provided to the United States Treasury as a result of section 422 of the American Jobs Creation Act: Now, therefore, be it
Resolved. That it is the sense of the Senate that innovative proposals to create new American jobs, such as repatriation, should be considered in the 112th Congress as part of comprehensive tax reform.

SENATE RESOLUTION 25—EXPRESSING THE SENSE OF THE SENATE THAT COMPREHENSIVE TAX REFORM LEGISLATION SHOULD INCLUDE INCENTIVES FOR COMPANIES TO INVEST IN FOREIGN EARNINGS FOR THE PURPOSE OF CREATING NEW JOBS

Mrs. BOXER submitted the following resolution; which was referred to the Committee on Finance:

S. Res. 25

Whereas innovative proposals to create new American jobs must be enacted in order to reduce the United States unemployment rate, which was 9.4 percent at the end of 2010; Whereas United States multinational companies have an estimated $1,000,000,000,000 in overseas earnings that could be used to invest in the economic recovery, but the current tax structure gives them an incentive to leave those earnings overseas; Whereas Congress passed section 422 of the American Jobs Creation Act of 2004, which allows for a temporary repatriation of foreign earnings at a lower tax rate to encourage companies to bring their overseas earnings back to invest in this country during this downturn; Whereas more than $300,000,000,000 in foreign earnings was returned to the United States as a result of section 422 of the American Jobs Creation Act of 2004; and Whereas $18,000,000,000 in additional revenue was provided to the United States Treasury as a result of section 422 of the American Jobs Creation Act: Now, therefore, be it
Resolved. That it is the sense of the Senate that innovative proposals to create new American jobs, such as repatriation, should be considered in the 112th Congress as part of comprehensive tax reform.

SENATE CONCURRENT RESOLUTION 3—HONORING THE SERVICE AND SACRIFICE OF STAFF SERGEANT SALVATORE GIUNTA, A NATIVE OF HIAWATHA IOWA, AND THE FIRST LIVING RECIPIENT OF THE MEDAL OF HONOR SINCE THE VIETNAM WAR

Mr. HARKIN (for himself and Mr. GRASSLEY) submitted the following concurrent resolution; which was considered and agreed to:

S. Con. Res. 3

Whereas Staff Sergeant Salvatore Giunta of the United States Army, a native of Hiawatha, Iowa, was awarded the Medal of Honor by President Obama on November 16, 2010; Whereas the Medal of Honor is the highest honor awarded to members of the Armed Forces for valor in combat; Whereas the official citation awarding the Medal of Honor to Staff Sergeant Giunta states that Staff Sergeant Giunta "distinguished himself conspicuously by gallantry and intrepidity at the risk of his life above and beyond the call of duty in action with an armed enemy in the Korengal Valley, Afghanistan, on October 25, 2007;" Whereas Staff Sergeant Giunta joins an elite group of Medal of Honor recipients dating back to the Civil War; Whereas the production and distribution of a medal of honor recognizing individual valor was first proposed by a fellow Iowan, Senator James W. Grimes, and the Secretary of the Navy was authorized to award the first "medals of honor" under section 7 of the Act of December 21, 1861 (12 Stat. 330; chapter 1); Whereas the Medal of Honor was first established by President Abraham Lincoln and the first living recipient of the Medal of Honor since the Vietnam War; Whereas Staff Sergeant Giunta displayed true courage in the face of enemy fire, risking his own life for the benefit of an injured soldier; Whereas the actions of Staff Sergeant Giunta represent the highest values of the Army and the United States; Whereas Staff Sergeant Giunta has demonstrated humility and dedication to his fellow soldiers and to occasions by stating that the Medal of Honor does not belong to him alone, but also to his fellow soldiers, both living and dead, for whom he holds the Medal of Honor in trust; and Whereas the brave actions of Staff Sergeant Giunta, which went above and beyond the call of duty, as well as the modesty and selflessness expressed by Staff Sergeant Giunta, stand as the embodiment of the best attributes of the people of the United States: Now, therefore, be it
Resolved by the Senate (the House of Representatives concurring), That Congress—
(1) honors the service and sacrifice of Staff Sergeant Salvatore Giunta of the United States Army, a native of Hiawatha, Iowa, and the first living recipient of the Medal of Honor since the Vietnam War; and
(2) encourages the people of the United States to recognize the valor and heroism exhibited by Staff Sergeant Giunta.

PRIVILEGES OF THE FLOOR

Mr. UDALL of New Mexico. Madam President, I ask unanimous consent that I may use the time normally provided for the privilege of the floor for the duration of this debate.

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

HONORING STAFF SERGEANT SALVATORE GIUNTA

Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to S. Con. Res. 3.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 3) honoring the service and sacrifice of Staff Sergeant Salvatore Giunta, a native of Hiawatha, Iowa, and the first living recipient of the Medal of Honor since the Vietnam War.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. I now ask unanimous consent that the concurrent resolution be agreed to, the pending matter, or proceed to other business unless such motion was made by the Majority Leader or his designee, the Senate shall dispose of the motion of the Majority Leader (or his designee) to bring debate to a close pursuant to paragraph (2) in the manner specified in subparagraph (B) of paragraph (2).

(ii) Delay.—During a period of extended debate, the Majority Leader or his designee may delay any vote until a designated time within the next 24 hours after the previous vote of the Senate, and any votes ordered or occurring thereafter shall likewise be delayed.

(iv) Procedure.—If the motion of the Majority Leader to bring debate to a close pursuant to paragraph (2) is agreed to by a majority of Senators chosen and sworn, the President shall announce that extended debate is ended and that the measure, motion, or other matter pending before the Senate shall be the unfinished business of the current day, and that pending matter, or proceed to other business unless such motion was made by the Majority Leader or his designee, the Senate shall dispose of the motion of the Majority Leader (or his designee) to bring debate to a close pursuant to paragraph (2) in the manner specified in subparagraph (B) of paragraph (2).

Mr. UDALL of New Mexico. Madam President, I ask unanimous consent that I may use the time normally provided for the privilege of the floor for the duration of this debate.

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

The concurrent resolution (S. Con. Res. 3) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. Con. Res. 3

Whereas Staff Sergeant Salvatore Giunta of the United States Army, a native of Hiawatha, Iowa, was awarded the Medal of Honor by President Obama on November 16, 2010; Whereas the Medal of Honor is the highest honor awarded to members of the Armed Forces for valor in combat; Whereas the official citation awarding the Medal of Honor to Staff Sergeant Giunta states that Staff Sergeant Giunta "distinguished himself conspicuously by gallantry and intrepidity at the risk of his life above and beyond the call of duty in action with an armed enemy in the Korengal Valley, Afghanistan, on October 25, 2007;" Whereas Staff Sergeant Giunta joins an elite group of Medal of Honor recipients dating back to the Civil War; Whereas the production and distribution of a medal of honor recognizing individual valor was first proposed by a fellow Iowan, Senator James W. Grimes, and the Secretary of the Navy was authorized to award the first "medals of honor" under section 7 of the Act of December 21, 1861 (12 Stat. 330; chapter 1); Whereas the Medal of Honor was first established by President Abraham Lincoln and the first living recipient of the Medal of Honor since the Vietnam War; Whereas Staff Sergeant Giunta displayed true courage in the face of enemy fire, risking his own life for the benefit of an injured soldier; Whereas the actions of Staff Sergeant Giunta represent the highest values of the Army and the United States; Whereas Staff Sergeant Giunta has demonstrated humility and dedication to his fellow soldiers and to occasions by stating that the Medal of Honor does not belong to him alone, but also to his fellow soldiers, both living and dead, for whom he holds the Medal of Honor in trust; and Whereas the brave actions of Staff Sergeant Giunta, which went above and beyond the call of duty, as well as the modesty and selflessness expressed by Staff Sergeant Giunta, stand as the embodiment of the best attributes of the people of the United States: Now, therefore, be it
Resolved by the Senate (the House of Representatives concurring), That Congress—
(1) honors the service and sacrifice of Staff Sergeant Salvatore Giunta of the United States Army, a native of Hiawatha, Iowa, and the first living recipient of the Medal of Honor since the Vietnam War; and
(2) encourages the people of the United States to recognize the valor and heroism exhibited by Staff Sergeant Giunta.
Whereas the actions of Staff Sergeant Giunta represent the highest values of the Army and the United States; 
Whereas Staff Sergeant Giunta has demonstrated humility and dedication to his fellow soldiers on numerous occasions, stating that the Medal of Honor does not belong to him alone, but also to his fellow soldiers, both alive and dead, for whom he holds the Medal of Honor in trust; and 
Whereas the brave actions of Staff Sergeant Giunta, which went above and beyond the call of duty, as well as the modesty and selfless service exhibited by Staff Sergeant Giunta, stand as the embodiment of the best attributes of the people of the United States: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—
(1) honors the service and sacrifice of Staff Sergeant Salvatore Giunta of the United States Army, who is the first living recipient of the Medal of Honor since the Vietnam War; and
(2) encourages the people of the United States to recognize the valor and heroism exhibited by Staff Sergeant Giunta.

UNANIMOUS-CONSENT AGREEMENT—S. RES. 14
Mr. REID. I ask unanimous consent that S. Res. 14, which is a resolution honoring the victims and heroes of the shootings on January 8, 2011, in Tucson, AZ, submitted earlier today by Senators McCain and Kyl, remain at the desk; that the Senate proceed to its consideration at 10:30 a.m. tomorrow morning, Wednesday, January 26; that there be 3½ hours of debate, equally divided between the majority leader and the Republican leader or their designees, and upon the use or yielding back of that time, the Senate proceed to vote on adoption of the resolution; that there are no amendments, motions or points of order in order prior to the vote on adoption; further, that if the resolution is adopted, the preamble be agreed to and the motions to reconsider be laid upon the table, with no intervening action or debate.

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

AUTHORIZING APPOINTMENT OF A COMMITTEE TO ESCORT THE PRESIDENT OF THE UNITED STATES
Mr. REID. Mr. President, I ask unanimous consent the President be authorized to appoint a committee on the part of the Senate to join a like committee on the part of the House to escort the President of the United States into the House Chamber for the joint session to be held tonight at 9 p.m.

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

MEASURES READ FOR THE FIRST TIME—S. 162 AND S. 163
Mr. REID. I am told there are two bills at the desk for their first reading. I am asking the titles on both.

The PRESIDING OFFICER. The clerk will read the titles of the bills on bloc for the first time.
EXTENSIONS OF REMARKS

MARCH FOR LIFE

HON. AARON SCHOCK
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES
Tuesday, January 25, 2011

Mr. SCHOCK. Mr. Speaker, I rise today to recognize the thousands of Americans who have come to Washington, D.C. for the annual March for Life. Starting as a grassroots movement in response to the U.S. Supreme Court’s fateful 1973 decision in Roe v. Wade, the March for Life has grown to over 200,000 participants in recent years. I applaud this year’s marchers who traveled across the country, including many from my home state of Illinois, to show their support for the unborn.

Abortion is one of the great tragedies of the last half century. In 2008 there were 1.21 million abortions in the United States, the equivalent of 100,000 abortions per month. I believe we need to continue to work with women, many of whom are afraid of the consequences of an unwanted pregnancy, on the alternatives to abortion. Crisis Pregnancy Centers, for example, provide various services to pregnant women including pre-natal care, counseling, pregnancy tests and information on adoption. Putting a child up for adoption is never an easy choice, but it is a preferred alternative to abortion. Adoption gives the pregnant woman the opportunity to bring happiness to another family that may not have the ability to have children of their own. According to the Administration for Children and Families and the U.S. Census Bureau, 57,000 children were adopted in the United States in 2009. Those 57,000 children will now have a better chance to have a successful and productive life.

On this, the 38th anniversary of Roe v. Wade, I applaud the hard work of all who were involved in this year’s March for Life. I urge my colleagues to support legislation recognizing the thousands of Americans who have come to Washington, D.C. for the annual March for Life.

CONGRATULATING THE UNIVERSITY OF NOTRE DAME WOMEN’S SOCCER TEAM

HON. JOE DONNELLY
OF INDIANA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, January 25, 2011

Mr. DONNELLY of Indiana. Mr. Speaker, today I rise before you to congratulate the University of Notre Dame Women’s soccer team. The Irish won the NCAA National Championship for the third time with a 1 to 0 win over top-ranked Stanford University on December 5, 2010. The game, played at WakeMed Soccer Park in Cary, N.C., capped a successful 22-2-2 season. With the spectacular victory, Notre Dame became just the second school in the 29-year history of the NCAA Division I Women’s Soccer Championship to win three titles, having also won in 1995 and 2004.

The 2010 season was one of many successes for the team. Aside from capturing the championship trophy, Head Coach Randy Waldrum was named the National Soccer Coaches Association of America Mondo Division I National Coach of the Year. This was the third consecutive season that Coach Waldrum has been recognized for a national coaching honor. In 2008, he was named the Field Turf Tarkett Division I National Coach of the Year in 2009, he was awarded the Soccer America Division I National Coach of the Year. In his twelve years as coach at Notre Dame, he has posted a 253-36-11 record and has led the team to five national championships and seven Big East titles.

Coach Waldrum was assisted by Coachs Dawn Greathouse and Ken Nuber and volunteer Assistant Coach Jeannette Boudway.

However, Coach Waldrum credits the success of the national championship season to the dedication and skill of his players. The 2010 Fighting Irish included: Seniors Rose Augustin, Lauren Fowlkes, Erica Iantorno, Julie Scheidel, and Nikki Weiss; Juniors Courtney Barg, Ellen Bartindale, Molly Campbell, Haley Chamberlain, Brynn Gestle, Melissa Henderson, Ellen Jantsch, and Jessica Schuettler; Sophomores Alex Brown, Jazmin Hall, Liz McNeil, and Jordan Snyder; and Freshmen Mandy Laddish, Adriana Leon, Kecia Morway, Elizabeth Tucker, Taylor Turner, Rebecca Twining and Elizabeth Wilson. Coach Waldrum noted after the victory, “To me, we’re the best team in the country...I’m really proud of the girls.”

The players had many personal successes as well as team victories. Junior All-America Forward Melissa Henderson was named first runner-up for the coveted Hermann Trophy, soccer’s national women’s player of the year award. She also won the Honda Sports Award given to the nation’s top player and was named Big East Offensive Player of the Year. Senior defender and co-captain Lauren Fowlkes; senior forward/midfielder Erica Iantorno and junior midfielder Molly Campbell were ESPN Academic All-District V selections. Lauren was then named to the 2010 ESPN Academic All-America Women’s Soccer Team and was chosen in the first round of the 2011 Women’s Professional Soccer Draft. Senior Rose Augustin was chosen in the third round of the draft. The team members worked hard on the field, in the classroom and in service to the community.

I offer my congratulations to the coaches, the players, members of the university administration and the Notre Dame community for their accomplishment on the road to the NCAA National Championship.

HON. DENNIS J. KUCINICH
OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Tuesday, January 25, 2011

Mr. KUCINICH. Mr. Speaker, I rise today in honor and memory of Mr. Gordon S. Murray. When Mr. Murray, a retired Wall Street executive, was diagnosed with an aggressive form of brain cancer in 2008, he decided rather than quietly and privately succumbing to the disease, he would write a guidebook outlining his investment strategy. In doing so, he helped many Americans make sense of investing.

Mr. Murray, a Baltimore native, spent years working for some of Wall Street’s biggest names, including Goldman Sachs. Upon his retirement in 2001, he sought investment advice from Mr. Daniel Goldie of Dimensional Fund Advisors, who introduced him to a new way of understanding investment. Dimensional advisers suggested going against the Wall Street mentality of taking exorbitant risks and attempting to beat the markets. Mr. Murray was quickly convinced of this system’s merits and began working for Dimensional as a consultant.

Last year, when brain scans revealed a new tumor, Mr. Murray made the decision to end aggressive treatment, and began to focus on writing a book with Mr. Goldie in an attempt to spread their knowledge to the greater public. They initially self-published the resulting book, “The Investment Answer,” which sold out of the original 200,000 copies last fall. Mr. Murray passed away just days before the hardcover version of the book was set to hit shelves. Mr. Murray felt that writing “The Investment Answer” was a beneficial experience. He stated, “To have a purpose and a mission for me has been really special. It probably has added days to my life.” (New York Times, 1/24/2011)

Mr. Speaker and Colleagues, please join me in honor and memory of Mr. Gordon S. Murray, who proved to be an inspiration through his refusal to let his terminal illness prevent him from achieving his life’s work. Mr. Murray will be loved and remembered by many, especially his widow, Randi; his mother; his two sons, Sam and Ben; two sisters, Gillian Koerber and Norma Inglehart; his many friends, colleagues and all who knew him.

HONORING COLLIN RYAN CROSSLEY

HON. SAM GRAVES
OF MISSOURI
IN THE HOUSE OF REPRESENTATIVES
Tuesday, January 25, 2011

Mr. GRAVES of Missouri. Mr. Speaker, I proudly pause to recognize Collin Ryan Crossley. Collin is a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 260, and earning the most prestigious award of Eagle Scout.

Collin has been very active with his troop, participating in many Scout activities. Over the many years Collin has been involved with Scouting, he has not only earned numerous merit badges, but also the respect of his family, peers, and community. Most notably, Collin...
HON. ANDRÉ CARSON
OF INDIANA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, January 25, 2011

Mr. CARSON of Indiana. Mr. Speaker, this weekend in Indianapolis, we were tragically reminded of the sacrifices our law enforcement officers make in order to protect our families. Officer David Moore of the Indianapolis Metropolitan Police Department was shot four times on Sunday morning during a traffic stop, and he’s now fighting for his life in a local hospital.

There’s no doubt Officer Moore knew the dangers of his work—his father is retired law enforcement, and his mother still serves on the Indianapolis police department. But like so many who wear the badge in communities across our Nation, David Moore took an oath to serve and protect others. To run for danger—not away from it.

I ask all my colleagues to join me in praying for Officer Moore and his family. And I ask everyone in this esteemed body to go back to their districts and take the time to thank their local law enforcement officers for the work they do—and the sacrifices they make.

HON. FRANK R. WOLF
OF VIRGINIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, January 25, 2011

Mr. WOLF. Mr. Speaker, I rise today to draw the attention of my colleagues to the plight of Christians and other religious minorities in the Near East and South Central Asia.

Special Envoy to Promote Religious Freedom of Religious Minorities in the Near East and South Central Asia

HON. FRANK R. WOLF
OF VIRGINIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, January 25, 2011

Mr. WOLF. Mr. Speaker, I rise today to draw the attention of my colleagues to the plight of Christians and other religious minorities in the Near East and South Central Asia and to announce that I am introducing legislation which would require the administration to appoint a special envoy for religious minorities in these regions to make this issue a foreign policy priority. I hope my colleagues will join me in supporting this important legislation.

Last October, at least 70 people were killed during a siege on Our Lady of Salvation Church in Baghdad making it the worst massacre of Iraqi Christians since 2003. Less than two months later, extremists bombed the homes of more than a dozen Christian families throughout Baghdad. In a hearing before the Tom Lantos Human Rights Commission, an Iraqi nun testified that the current spate of violence against Christians is worse than anything experienced under the ruthless dictatorship of Saddam Hussein. The U.S. has a moral imperative to ensure that these minorities are protected.

On New Year’s Eve, Miriam Fekry, a 22-year-old Egyptian woman posted on her Facebook page before leaving for mass that “2010 is over. This year has the best memories of my life. Really enjoyed this year. I hope that 2011 is much better. Plz God stay beside me & help make it all true.” Tragically, that evening Miriam and 22 other people were killed by a suicide bomber in Alexandria, Egypt while coming out of mass at St. Mark and St. Peter Coptic Church. It was the worst violence against the country’s Christian minority in a decade. Just ten days after this attack in Alexandria, an off-duty police officer fatally shot a Coptic Christian man and wounded five others Copts on a train in Egypt.

In Afghanistan and Pakistan, countries where the United States has invested its troops and the lives of countless brave young American soldiers, persecution of Christians runs rampant. On November 7 last year, a Pakistani court sentenced Asia Bibi, a Christian mother of five, to death for the “crime” of blasphemy. Only after intervention by the international community was her conviction delayed. Her fate remains uncertain. Unfortunately this is symptomatic of a much larger problem in Pakistan. Pakistan’s blasphemy laws are often used to victimize both religious minorities and Muslims. In fact, Punjab’s governor, influential Governor, Salmaan Taseer, was shot and killed by his own body guard who reportedly told police, “that he killed Mr. Taseer because of the governor’s opposition to Pakistan’s blasphemy law.”

In Afghanistan, a televised broadcast of Afghans being baptized resulted in the arrest of four Christians last August, who were eventually released due to international pressure. However, two Afghan converts to Christianity remain imprisoned on account of their faith. One of the Christian converts is facing a possible death sentence reportedly said, “Without my faith I would not be able to live.”

Other religious minorities including the Ahmadis, Baha’is, Zoroastrians and Jews are under increasing pressure in the region.

Last May, militants in Pakistan attacked two Ahmadi mosques in Pakistan killing at least 80 people. While the Ahmadis consider themselves Muslims, Pakistani law does not recognize them as such and they have been the target of large-scale coordinated attacks by extremist groups.

According to the Baha’i World News Service, some 335 Baha’is have been arrested in Iran on account of their religious beliefs. Seven leaders of the Baha’i faith in Iran have been imprisoned since their arrest in 2008. According to the State Department’s 2010 International Religious Freedom Report, Zoroastrians living in Iran also face persecution and blatant discrimination.

Members of the Jewish faith continue to experience discrimination and persecution throughout the region. The Special Envoy for Anti-Semitism Hannah Rosenthal has noted that Holocaust glorification “is especially virulent in the Middle East media.”

In the wake of these disturbing attacks on religious freedom, which in some cases are so severe that they literally threaten to wipe these ancient indigenous communities from the lands they’ve inhabited for centuries, it is clear that more must be done. Sadly, against the backdrop of these attacks, the post of Ambassador-at-Large for International Religious Freedom at the State Department has been vacant for two years.
If the international community fails to speak out, the prospects for religious pluralism and tolerance in the region are bleak. President Ronald Reagan once said that the U.S. Constitution is a “covenant that we have made not only with ourselves, but with all of mankind.”

HONORING JOSEPH DANIEL MOSS
OF MASSACHUSETTS
IN THE HOUSE OF REPRESENTATIVES
Tuesday, January 25, 2011

Mr. GRAVES of Missouri. Mr. Speaker, I proudly pause to recognize Joseph Daniel Moss. Joseph is a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, troop 260, and earning the most prestigious award of Eagle Scout.

Joseph has been very active with his troop, participating in many Scout activities. Over the many years Joseph has been involved with Scouting, he has not only earned numerous merit badges, but also the respect of his family, peers, and community. Most notably, Joseph has contributed to his community through his Eagle Scout project.

Mr. Speaker, I proudly ask you to join me in commending Joseph Daniel Moss for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

CONGRATULATING MS. PAULA BUONOMO
HON. MICHAEL R. TURNER
OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Tuesday, January 25, 2011

Mr. TURNER. Mr. Speaker, I am proud to recognize a member of the General Daniel “Chappie” James American Legion Auxiliary Post 776, located in my congressional district in Riverside, Ohio, for the service she has given to her community.

On November 6, 2010, Ms. Juanita Bradley was honored as the “Woman of the Year” in Dayton, Ohio, for her lifetime of work and dedication to assist needy families in Dayton and the surrounding communities.

Ms. Bradley is the founder and chairman of the American Legion Post 776 “Needy Family Committee” which has provided holiday food baskets to needy families in Dayton for over 25 years. Under Ms. Bradley’s guidance and leadership, the number of families receiving food baskets has grown from 12 to 60 families. These baskets, which are delivered on the third Saturday in December, are the size of a large laundry basket, and are filled with a variety of perishable and non-perishable items.

Ms. Bradley and her committee also serve hot meals to a homeless residence at the St. Vincent Hotel on a monthly basis. Most of the meals served are cooked by Ms. Bradley herself.

Ms. Bradley is also the Chair of “Make a Difference Day,” which for two years has “adopted” the children of service men and women who have been deployed overseas. The event offers an alternative to trick-or-treat by hosting a Halloween party where kids can enjoy pizza, sodas, and other treats in a safe and fun environment. Last year, the event also provided the children with phone cards that could be used to call their parents during the holidays.

The American Legion Auxiliary is the world’s largest, nonprofit patriotic women’s service organization whose members do volunteer work for a multitude of worthwhile causes that benefit America’s veterans, children and communities. It is my pleasure to congratulate Ms. Juanita Bradley for her receipt of the “Woman of the Year” award in Dayton, Ohio.

HON. JAMES P. MCGOVERN
OF MASSACHUSETTS
IN THE HOUSE OF REPRESENTATIVES
Tuesday, January 25, 2011

Mr. MCGOVERN. Mr. Speaker, I rise today in recognition of a true friend and valued public servant, Ms. Paula Buonomo, for her years of dedicated service to the constituents of the Massachusetts Third Congressional District. After 14 years as District Representative in my Worcester Congressional Office, Paula is retiring to spend more time with her family and especially her beautiful baby granddaughter, Abigail.

Paula joined my Worcester office early in my first term in 1997. Since that time she has exhibited consistent excellence and shown a thoughtful and compassionate hand in all of her work. She has been tireless in her approach with constituents, always welcoming and personable, a model of patient kindness. Most notably Paula has enjoyed a delight to work with these many years, and I know that I speak not only for myself, but for my entire staff when I say that we will all miss her dearly.

It is bittersweet to say goodbye to a beloved and loyal colleague, but I know that Paula will remain involved in many other important efforts, including her work at the Worcester County Food Bank, where she serves on the board, and her church, St. Matthew’s Parish of Worcester. Whatever projects or ventures she takes on, I am confident that Paula will continue to make a positive difference in her community.

Mr. Speaker, I am sure that the United States House of Representatives joins me in recognizing Ms. Paula Buonomo for her many years of dedicated public service to the constituents of the Massachusetts Third Congressional District, and for the indispensable role she has played as one of my most trusted and valued staff members. I wish her only the best in all of her future endeavors.

HONORING RYAN JACOB ROBERTS
HON. SAM GRAVES
OF MISSOURI
IN THE HOUSE OF REPRESENTATIVES
Tuesday, January 25, 2011

Mr. GRAVES of Missouri. Mr. Speaker, I proudly pause to recognize Ryan Jacob Roberts. Ryan is a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, troop 1180, and earning the most prestigious award of Eagle Scout.

Ryan has been very active with his troop, participating in many Scout activities. Over the many years Ryan has been involved with Scouting, he has not only earned numerous merit badges, but also the respect of his family, peers, and community. Most notably, Ryan has contributed to his community through his Eagle Scout project. Ryan designed and constructed a picnic area in the Kansas City, Missouri Police Department’s Trail of Heroes park, as a place of significant importance to Ryan as both his father and brother are Kansas City Police officers.

Mr. Speaker, I proudly ask you to join me in commending Ryan Jacob Roberts for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

FAMILY PLANNING AID: LACK OF SECURITY IN AFGHANISTAN
HONORING RYAN JACOB ROBERTS
HON. SAM GRAVES
OF MISSOURI
IN THE HOUSE OF REPRESENTATIVES
Tuesday, January 25, 2011

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Mr. Speaker, I proudly ask you to join me in commending Ryan Jacob Roberts for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

PERSONAL EXPLANATION
HON. ADAM SMITH
OF WASHINGTON
IN THE HOUSE OF REPRESENTATIVES
Tuesday, January 25, 2011

Mr. SMITH of Washington. Mr. Speaker, yesterday evening, Monday, January 24, 2011, I was unable to be present for recorded votes. Had I been present, I would have voted “no” on rollcall vote No. 17 (on ordering the previous question), and “no” on rollcall vote No. 18 (on agreeing to the resolution H. Res. 43).

SPECIAL INSPECTOR GENERAL FOR AFGHANISTAN RECONSTRUCTION, MAJOR GENERAL ARNOLD FIELDS’ WARNING
HON. DENNIS J. KUCINICH
OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Tuesday, January 25, 2011

Mr. KUCINICH. Mr. Speaker, the outgoing Special Inspector General for Afghanistan Reconstruction, Major General Arnold Fields, issued a last warning yesterday before moving on from his post.

Fields warned that over $11 billion of U.S. aid is at risk, citing insufficient planning and a lack of oversight. The $11 billion are funds designated to build facilities to house and train Afghan security forces.

The lack of security in Afghanistan also poses a problem, placing any potentially beneficial projects that are completed at risk. Even if all the facilities scheduled to be built are completed, does Afghanistan have the capability to protect and maintain them?
A March 2010 report by the United Nations states that there is a “massive human rights deficit” in Afghanistan, with 36 percent of the population living in absolute poverty and another 37 percent living just above the poverty line. Only 23 percent of the country has access to clean water. This, despite the billions of dollars in reconstruction and development aid we have funneled into the country.

So where is our money going? We know that President Karzai and his cronies are living large, while the rest of the country falters. It is time to bring our troops home.

HONORING ZACH ILDZAA
HON. SAM GRAVES
OF MISSOURI
IN THE HOUSE OF REPRESENTATIVES
Tuesday, January 25, 2011

Mr. GRAVES of Missouri. Mr. Speaker, I proudly pause to recognize Zach Ildza. Zach is a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 214, and earning the most prestigious award of Eagle Scout.

Zach has been very active with his troop, participating in many Scout activities. Over the many years he has been involved with Scouting, he has not only earned numerous merit badges, but also the respect of his family, peers, and community. Most notably, Zach has contributed to his community through his Eagle Scout project.

Mr. Speaker, I proudly ask you to join me in commending Zach Ildza for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

HON. SCOTT MAHER
HON. PHIL GINGREY
OF GEORGIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, January 25, 2011

Mr. GINGREY of Georgia. Mr. Speaker, on behalf of the National Franchisee Association, NFA, which serves the Burger King community in its advocacy, training, and service-related functions and which is located in Georgia’s 11th Congressional District, I am honored to recognize Mr. Scott Maher, a 25-year employee of the Coca-Cola Company.

This year, Mr. Maher celebrates a landmark anniversary as an employee of the Coca-Cola Company. In his years, he has dedicated himself to providing excellent service, honoring his commitments as a businessman and serving as a friendly face to the Coca-Cola name. In relation to the NFA, Mr. Maher actively advocates on behalf of small business owners around the country by supporting—both financially and personally—NFA’s Government Relations Summit every year. Every September, you can count on Mr. Maher to schedule a meeting with my office through NFA to discuss the effects of anti-business legislation on NFA members and, consequently, the Coca-Cola Company.

The NFA is eternally grateful for Mr. Maher’s support of the franchising industry and of Burger King franchisees in particular.

Congratulations on 25 years of service with the Coca-Cola Company and I wish you many more to come.

PERSONAL EXPLANATION
HON. ALBIO SIRES
OF NEW JERSEY
IN THE HOUSE OF REPRESENTATIVES
Tuesday, January 25, 2011

Mr. SIRES. Mr. Speaker, on January 24, 2011, I missed rollcall vote Nos. 17 and 18. Had I been present, I would have voted “no” on rollcall 17 and “no” on rollcall 18.

STATEMENT OF CONCERN REGARDING THE TAKEOVER OF LEBANON’S INSTITUTIONS BY THE TERRORIST GROUP HEZBOLLAH
HON. SUE WILKINS MYRICK
OF NORTH CAROLINA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, January 25, 2011

Mrs. MYRICK. Mr. Speaker, more than a week ago, a coalition led by the terrorist organization Hezbollah caused the crumbling of the Lebanese Government. Hezbollah is now seeking to form a new cabinet where the organization and its allies would control many crucial Lebanese ministries—including defense, interior, foreign affairs, and the finances of the country.

This is an unprecedented power grab by a terrorist organization, which has a global reach in the Middle East, Africa, Europe, Latin America, and even on our southern border and perhaps inside the United States itself. Hezbollah is the proxy army of Iran, and Iran has made it into the most well-trained and well-funded terrorist group in the world. The situation in Lebanon, and the growing global power of Hezbollah, should be a great cause of concern to Americans.

The people of Lebanon, particularly the Lebanese youth, have been demonstrating in the streets of Beirut, Tripoli and other areas, sending America a clear message about their rejection of Hezbollah. For some time now, Lebanon has been under the threat of Hezbollah’s powerful militia, which has thousands of rockets and missiles, and whose members—according to media reports—are likely to be indicted in the 2005 terror assassination of former Lebanese Prime Minister Rafic Hariri. Hezbollah is using this militia to threaten and bully Lebanon so that it can create a new government that would become a puppet of the Iranian regime, much like the Syrian regime. We must not let Iran gain further influence in the Middle East.

I ask Congress and the President to declare its solidarity with the Lebanese people and to reject any recognition of a Hezbollah government. I also call on the President to ask the United Nations to implement UNSCR 1559, which calls for disarming of militias in Lebanon, which are a threat to all of its peace-loving people. I also ask my colleagues in Congress to issue strong statements of support for the Cedars Revolution and to the people of Lebanon as they face the takeover of their country by terrorist organization Hezbollah.

INTRODUCTION OF THE INTERNATIONAL WOMEN’S FREEDOM ACT OF 2011
HON. CAROLYN B. MALONEY
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Tuesday, January 25, 2011

Mrs. MALONEY. Mr. Speaker, today I am proud to reintroduce the International Women’s Freedom Act with my colleagues, Representatives CHAKA FATTAH, JIM MORAN, JERRY McNERNEY, LYNN WOOLSEY, and TIM RYAN. This bill is a comprehensive piece of legislation which will increase awareness of human rights violations against women, as well as provide a set of mechanisms for the U.S. to address the violations of women’s human rights abroad.

The bill is modeled after the International Religious Freedom Act of 1998. IRFA, IRFA created the U.S. Commission on Religious Freedom which has been successful in identifying violations of religious freedom abroad and recommending actions to Congress, the Secretary of State, and the President.

It has been clear for many years that expanding opportunities for women not only improves their position in society but also has a positive impact on economic growth and burgeoning democracies. As Secretary of State, Hillary Clinton has stated publicly regarding American foreign policy, “there has to be special attention paid to the needs of women and girls. It’s in America’s national security interests to do so.” And yet around the world, many countries relegate women to second-class status, denying them the right to vote, restricting their travel, and limiting their access to education and health care.

The International Women’s Freedom Act would ensure we have the tools to empower women on a global level. Modeled after the successful International Religious Freedom Act, the bill would establish a Commission on International Women’s Rights and would expand the duties of the existing Office of International Women’s issues in the State Department and rename it, the Office on International Women’s Rights. Both the Commission and the Office on International Women’s Rights would be granted the responsibilities of issuing a report on the status of women’s rights abroad and advising the President and Secretary of State regarding matters affecting these issues.

We need to work harder to ensure women’s full participation in society. This legislation would move us closer to achieving this foreign policy imperative.

HONORING MAHLON KRUSE
HON. SAM GRAVES
OF MISSOURI
IN THE HOUSE OF REPRESENTATIVES
Tuesday, January 25, 2011

Mr. GRAVES of Missouri. Mr. Speaker, I proudly pause to recognize Mahlon Kruse. Mahlon is a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 214, and earning the most prestigious award of Eagle Scout.

Mr. Speaker, I proudly ask you to join me in commending Mahlon Ildza for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.
Mr. Speaker, I proudly ask you to join me in commending Mahlon Kruse for his accomplishments with the Civil Air Patrol and for his efforts put forth in achieving the highest distinction of the Mitchell Award.

HONORING MR. BOB SHRYOCK, RESPECTED JOURNALIST AND ADMIRER MEMBER OF THE SOUTH JERSEY COMMUNITY

HON. ROBERT E. ANDREWS
OF NEW JERSEY
IN THE HOUSE OF REPRESENTATIVES
Tuesday, January 25, 2011

Mr. ANDREWS. Mr. Speaker, I rise today to honor Bob Shryock for his contributions to South Jersey through his journalism and civic involvement.

Mr. Shryock began his long and successful writing career at the age of 11 as a daily golf columnist. Since this precocious start, Mr. Shryock has worked for 82 years in the newspaper industry and written over 10,000 columns. He began his South Jersey career as sports editor for the Gloucester County Times in 1964. During this time, Mr. Shryock hired me for my first job. It was my responsibility to call Mr. Shryock and report on Bellmawr Little League scores. It was a duty I took very seriously and I remain grateful for that opportunity to this day. Between 1969 and 1980, Mr. Shryock was managing editor for both the Gloucester County Times and the Camden Courier Post. His columns are still a highlight for me in the Gloucester County Times.

Mr. Shryock is a very active member of the South Jersey sports community and has been a high school football announcer for over 30 years. In 1967, Mr. Shryock co-founded the Touchdown Club of South Jersey to honor high school football players. The club has expanded over the years to honor athletes for both their athletic achievements and their academic successes.

Mr. Speaker, I am proud to have benefitted from Mr. Shryock’s sage words for many years. I look forward to reading many more columns from Bob and I hope that he will continue to announce at football games for many years to come.

FORT LEWIS COLLEGE TRIBUTE

HON. SCOTT R. TIPTON
OF COLORADO
IN THE HOUSE OF REPRESENTATIVES
Tuesday, January 25, 2011

Mr. TIPTON. Mr. Speaker, I rise today to celebrate the centennial anniversary of the founding of Fort Lewis College, of Durango, Colorado, on January 25, 1911. Fort Lewis College has continually provided a world-class liberal arts education for students of 47 States and is consistently recognized as a top university in the United States.

On January 25, 1911, Governor John Shafroth signed a bill creating an agricultural high school open to all students and offering a free education to Native Americans. The school received $60,000 in funding for its first year from the State of Colorado. Since then, Fort Lewis College has proven itself able to adapt to the educational needs of its time. The school has progressed from agricultural high school to a junior college in 1927 and eventually a four year liberal arts college. The school has survived numerous attempts to shut it down, and in 1948 became an independent educational institution under the Colorado State Board of Agriculture. In 1956, Fort Lewis College, then Fort Lewis A&M, officially moved to its present location in Durango, Colorado.

Fort Lewis College offers a demanding, stimulating college experience, fostering a culture of learning that values community outreach and a strong liberal arts education. Fort Lewis College boasts an impressive list of accomplishments, including five Colorado Professor of the Year awards—only the U.S. Air Force Academy has a higher number of professors with the same distinction in Colorado.

Of four year institutions, Fort Lewis College awards the highest number of bachelor’s degrees to Native Americans. Eleven NCAA Division II varsity teams compete in the Rocky Mountain Athletic Conference and the college offers ninety unique academic programs and seventy student organizations.

Mr. Speaker, I would like to congratulate Fort Lewis College on its alma mater, for turning 100, and wish the institution another 100 years of academic success.

RECOGNIZING THE AWARD OF EAGLE SCOUT EARNED BY TYLER BARRY

HON. RICHARD L. HANNA
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Tuesday, January 25, 2011

Mr. HANNA. Mr. Speaker, I proudly pause to recognize Tyler Barry of Marathon, NY. Tyler is a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America and earning the most prestigious award of Eagle Scout.

Tyler has been very active with his troop, participating in many Scout activities. At the age of 6, Tyler began Scouting and over the years, he has not only earned numerous merit badges, but also the respect of his family, peers, and community. Tyler has also contributed to his community through his Eagle Scout project. Tyler designed and constructed a handicap ramp for St. Stephen’s Church, of which he is an active member.

Tyler plays three sports at Marathon High School, has a part-time job and also plays in band with some of his peers.

Mr. Speaker, I proudly ask you to join me in commending Tyler Barry for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

RECOGNIZING THE 110TH ANNIVERSARY OF GEORGE HENRY WHITE DAY

HON. G.K. BUTTERFIELD
OF NORTH CAROLINA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, January 25, 2011

Mr. BUTTERFIELD. Mr. Speaker, I rise in recognition of George Henry White Day being held in Tarboro, North Carolina on Saturday, January 29, 2011. That day will mark the 110th anniversary of Congressman George Henry White’s famous farewell speech Floor of the United States House of Representatives.

Born on December 18, 1853, George Henry White was the only African American in Congress when he was elected in 1896 and re-elected in 1898. He was the last African American elected to Congress from the post-Civil War era.

George Henry White left Congress in 1901, and it would be almost 30 years before another African American would be elected to Congress. And, as we know, no blacks were elected to Congress from the South until 1972; well after the passage of the Voting Rights Act in 1965.

George Henry White was a strong and gifted speaker, who often condemned the harsh and brutal treatment of blacks in the South and introduced the first anti-lynching legislation in Congress.

In 2002, the Tarboro Town Council approved a resolution declaring January 29 as the annual George Henry White Day in Tarboro. In 2003, the Edgecombe County Board of Commissioners approved a similar resolution declaring January 29 as the annual George Henry White Day in Edgecombe County.

On June 25, 2004, the Tarboro Post Office was officially named the George Henry White Post Office Building, after the President signed a reälisation I introduced into Congress.

On George Henry White Day, January 29, 2005, the Phoenix Historical Society unveiled a commissioned portrait of George Henry White in the Superior Court Room of the Edgecombe County Court House following approval by the Edgecombe County Board of Commissioners.

In 2007, I introduced legislation urging the Citizens Stamp Advisory Committee to consider honoring George Henry White with a commemorative postage stamp. I reintroduced the legislation in 2009, and I will again reintroduce this legislation during the 112th Congress.

Last year, the North Carolina Historical Commission approved recommendations of the Capitol Monument Study Committee to lift a moratorium of new monuments on the state capitol square to include among others a monument to commemorate the achievements and public statements of U.S. Representative George Henry White.

Mr. Speaker, George Henry White fearlessly and consistently stirred the conscience of America to embrace racial justice and equality for all people. It was a life worthy of remembrance. Please join me in recognizing George Henry White, and in sending our best wishes to the Phoenix Historical Society, which organized the George Henry White Day.
DAVE DILL TRIBUTE

HON. SCOTT R. TIPTON
OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 2011

Mr. TIPTON. Mr. Speaker, I rise today to recognize David Lee Dill of Pueblo, Colorado, for his service to his community and his immense contribution to local, State, and Federal Government.

Dave was born in Lamar, Missouri, and moved around the State until he graduated from high school in Springfield. After his diploma, Dave served in the Navy and trained to be a hospital corpsman. Following his honorable discharge from the Navy, he went back to night school at Drury College in Springfield to earn his bachelor’s in history while he simultaneously worked full-time and started a family. He has spent a career rising through the ranks of the operations management field in various States and in 1994 was promoted to vice president of operations at Artistic Greetings, in Elmira, New York. By 1997, Dave and his family decided they needed to move back home to Pueblo, Colorado.

Dave has always been intensely interested in government and has dedicated much of his life to fostering strong civic ties between citizens and elected officials. While living in Colorado Springs as a young man, Dave’s employer suggested he meet his Congressman and other office holders. Since then, Dill has felt a need to serve others and motivate them to care about their elected representatives.

Dill has risen through the ranks of the Republican Party, starting as a volunteer on local races and eventually becoming a valuable electoral asset working on statewide and congressional campaigns. In 2007, he saw an opportunity to advance the political dialogue in the diverse Pueblo community and ran successfully for two terms as Republican County Chairman. During his tenure, he revolutionized the Pueblo County Republican Party by re-vamping, expanding, and increasing outreach through social media. He was also responsible for inviting Dana Perino as the keynote speaker at Pueblo County’s 2010 Lincoln Day dinner. He has decided to retire from politics.

Mr. Speaker, through the efforts of citizens like David Dill, America is able to foster a positive, representative democracy. I would like to thank Mr. Dill for his respectfulness, passion, and excitement in electoral politics, as well as for his countless hours of community service.

HONORING NEW JERSEY STATE SENATOR NIA GILL AND HER COMMITMENT TO SOCIAL JUSTICE

HON. ROBERT E. ANDREWS
OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 2011

Mr. ANDREWS. Mr. Speaker, I rise today to honor State Senator Nia Gill for her contributions to the 34th legislative district of New Jersey and its residents.

A proud mother and grandmother, Senator Gill was born in Glen Ridge and raised in Montclair. Before earning her law degree at the Rutgers School of Law—Newark, Senator Gill graduated from Upsala College. Senator Gill also holds an honorary Doctor of Laws from Essex County College.

Ms. Gill began her career in government as a Legislative Aide to the late Senator Wynona Lipman, over 20 years ago. During four terms in the New Jersey State Assembly, Ms. Gill was elected to the New Jersey State Senate in 2001. Senator Gill’s district includes Montclair, East Orange, Glen Ridge, Clifton, and Woodland Park.

In January of 2010, Ms. Gill was chosen by her Senate colleagues to serve as Senate President Pro Tempore. Currently, Senator Gill is a member of the Senate Judiciary Committee, making her the first African American and the first woman to hold this position.

An advocate for human rights, Senator Gill has sponsored legislation that provided more than 100,000 young, uninsured New Jersey citizens with health insurance coverage. Ms. Gill has also assisted women-owned businesses in New Jersey with a bill providing loans and training, ensuring that these businesses are able to prosper in the future.

A respected member of the legislative community, Senator Gill was honored by Selma, Alabama as one of the ‘100 women in the 20th Century’ who contributed to the struggle for civil rights. Senator Gill will also be honored as a community leader by the Rutgers School of Law—Camden at the Champions of Social Justice and Equality Banquet.

Mr. Speaker, I am proud to honor Senator Gill and thank her for her legislative accomplishments on behalf of the state of New Jersey and its residents.
Mr. Faulk’s distinguished public service career is highlighted through his work as a Senior Administrative Aide to one of our Nation's most influential and respected Members of Congress, Senator Sam Nunn of Georgia. Following Mr. Faulk’s retirement from Senator Nunn's office, Mr. Faulk dedicated himself to full-time community service in his adopted hometown of Richland, Georgia. In 1998, he was elected as the city’s first African American mayor, successfully serving two terms.

With an unyielding humanitarian spirit, he served on many city and state boards, councils, and many memberships and appointments included lifetime membership in the National Association for the Advancement of Colored People (NAACP); a member of the Stewart-Webster Rural Health Board of Directors; the Columbus, Fort Benning, and Phenix, Georgia Civilian Military Council; the A. J. McChung YMCA Board of Directors; the Muscogee County Rotary Club; the Georgia Municipal Association, and a proud lifetime member of Phi Beta Sigma Fraternity.

Mr. Faulk was an active volunteer for many organizations and projects, including serving as volunteer sponsor of the Richland Annual Pig Fest, the Stewart County Historical Society, and Habitat for Humanity. In 1993, he was honored as one of the Fifty Most Influential African Americans in the Columbus, Phenix, and Fort Benning Area. In 1996, he was honored when the city of his birth, Cairo, proclaimed December 1 as “Olan Faulk Day.”

A true Christian, Mr. Faulk was a faithful member of Bethel African Methodist Episcopal, AME; Church of Richland, where he served as a church steward and trustee. He later joined the Resurrection of Our Lord Catholic Church in Savannah, where he remained an active member.

Mr. Faulk is survived by his loving family: his wife, Risco Faulk; his son, Wendell Faulk of Buena Vista, Georgia; four daughters, Vickie Faulk Clemens of McDonough, Georgia; Angela Mobeley Chavis, Marilyn Mobeley Geiger, and Carolyn Mobeley Pierce, all of Savannah; his brother, Otley Faulk of Milledgeville, Georgia; 15 grandchildren; 10 great-grandchildren; and a host of nephews, nieces, cousins, and many friends.

Mr. Speaker, Olan Faulk was a great public servant, model citizen, and a trusted friend to my wife, Vivian, and me. His years of selfless service to his community, the State of Georgia, and America are his lasting legacy.

PERSONAL EXPLANATION

HON. BRAD SHERMAN
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, January 25, 2011

Mr. SHERMAN. Mr. Speaker, it is my practice to vote present on a legislative proposal when I agree with the purposes and sentiment behind the proposal, but I believe that the particular legislative proposal is not drafted in a way that will achieve its objective or in a way that is effective and practicable, or where I believe that the language will have unintended consequences. I voted present on the motion to recommit which came before the House today. I strongly believe that we should take all reasonable steps to encourage companies to provide employment in the U.S. and to discourage offshoring and outsourcing.

HONORING COLONEL DENISE K. LEW

HON. KATHY CASTOR
OF FLORIDA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, January 25, 2011

Ms. CASTOR of Florida. Mr. Speaker, I rise to herald the achievements of Colonel Denise K. Lew and to acknowledge our pride in her valuable contributions to the United States Air Force Medical Service.

Colonel Lew was born and raised in the San Francisco Bay Area. She entered active duty in 1984 through a direct commission into the Air Force Medical Service Corps (MSC). She is a board certified Health Care Executive, and a Fellow of the American College of Healthcare Executives. She has also earned designations as a Health Insurance Association and Managed Healthcare Professional from the Center for Insurance Education and Professional Development, which is an educational program offered by America’s Health Insurance Plans (AHIP).

Colonel Lew has received numerous awards and honors throughout her career. Among them are the: Defense Superior Service Medal, Meritorious Service Medal with four oak leaf clusters, Air Force Commendation Medal, and Air Force Outstanding Unit Award with three oak leaf clusters. In 1996, she received the American College of Healthcare Executives Early Career Regent’s Award. Also, in 2002, she earned the Air Force Materiel Command Commitment to Service Award.

Colonel Lew will be completing an outstanding 26-year career in the United States Air Force in January 2011. She has served with dedication and honor as a Medical Service Corps officer. Furthermore, as the Director of the Medical Service Corps, she has greatly impacted the careers of hundreds of health care executives in the Corps and will influence several generations beyond the tenure of her career. Her efforts have enhanced the medical capability needed to ensure success in overseas contingency operations. It is for this reason that we would like to honor and recognize the remarkable career of Colonel Lew.

The Tampa community and MacDill Air Force Base are proud to recognize Colonel Lew for her outstanding career and her many significant contributions to the Air Force and our country. Her determination and hard work have made her an inspirational leader within our Air Force.

HONORING MR. SETH WILLIAMS, PHILADELPHIA DISTRICT ATTORNEY AND RESPECTED COMMUNITY LEADER

HON. ROBERT F. ANDREWS
OF NEW JERSEY
IN THE HOUSE OF REPRESENTATIVES
Tuesday, January 25, 2011

Mr. ANDREWS. Mr. Speaker, I rise today to honor District Attorney Seth Williams for his service and dedication to the City of Philadelphia and the surrounding community.

Raised in West Philadelphia by his loving parents Imelda and Rufus Williams, Mr. Williams graduated from Central High School in 1985. He later attended Pennsylvania State University, where he served as President of the Black Caucus and President of the Undergraduate Student Government. He continued on to graduate studies at Georgetown University where he earned his law degree.

After law school, he served ten years as the assistant district attorney of Philadelphia and as the Inspector General for the city until 2008.

Mr. Williams’ dedication and drive proved vital on his path to the District Attorney's office. His perseverance pushed him through last year's Democratic primary and the general election last November. Mr. Williams’ election made him the first black District Attorney in Philadelphia history.

District Attorney Williams currently lives in Philadelphia with his wife, Sonita, his mother Imelda, and his two daughters, Taylor and Hope. I am pleased that Mr. Williams will soon be honored as a community leader by the Ruth Institute of Law and Champions of Social Justice and Equality Banquet.

Mr. Speaker, Seth Williams has an impressive record and I wish him continued successes in his future endeavors.

HONORING ROGER MILLIKEN

HON. MICHAEL H. MICHAUD
OF MAINE
IN THE HOUSE OF REPRESENTATIVES
Tuesday, January 25, 2011

Mr. MICHAUD. Mr. Speaker, I rise today to pay tribute to Roger Milliken, a dear friend and true champion of American workers and manufacturing. Roger passed away on December 30 after a long life of hard work and passionate advocacy. His passing signals the end of an era when corporate leaders valued more than profits and when American companies did not jump at the first chance to ship jobs overseas just to save a buck.

Milliken was larger than life in many ways. He had many passions and lived vibrantly. We are fortunate for this, because it means his legacy will still be here to inspire us to do more and work harder. It will also remind us to never give up on U.S. manufacturing and the idea that you can make things in America. In fact, it was Roger’s commitment to American manufacturing that sparked our friendship. About six years ago, Roger came to my office on Capitol Hill without any previous introduction. He walked into my office nearly unannounced at the respectable age of 90 to shake hands and talk about our common concerns with U.S. trade policy’s impact on our manufacturing sector. He introduced himself and forged a friendship with me, a new and far-from-senior Member of Congress, simply because he wanted to thank me for my attention to manufacturing and trade and to encourage me to continue the fight to make U.S. policy on both issues better.

One funny anecdote in particular speaks to Roger’s honest, friendly character. I couldn’t beat an event one afternoon, so one of my staff and I went in my place. Roger was at the event, and listened to my staffer’s speech, which she had to give sitting down because she didn’t feel well. After her remarks, Roger...
went up to her and seeing that she wasn’t feeling very good and knowing she had recently gotten married, said, “have you considered the possibility that you’re pregnant?” My staffer had not even considered that idea but a few days later confirmed that Roger’s prediction had been right. And that’s the kind of guy he was, a compassionate and honest in the best way. Now everyone knows Roger Milliken had enormous foresight, but this took it to a whole new level.

Our friendship was not an obvious one. Roger was a mill owner and before I came to Congress I was a mill worker. Roger was a Republican, and I am a Democrat. He lived a long life in South Carolina, and I come from Maine. Still, Roger was the kind of guy who looked for commonalities, regardless of the number of differences. And we shared a commitment to fixing U.S. trade policy and promoting U.S. manufacturing.

Roger truly believed in innovation and hard work as the keys to being good at making things. And he believed in a corporate code of morals. He rolled up his sleeves, got involved in the day-to-day workings of his company and pushed his employees to do the best work they could. And through these qualities, he created the largest privately held textile empire in the world. He also became a pioneer of corporate patriotism and firmly held the belief that profits should come at the cost of American jobs. He believed the strength of our nation relied on a strong manufacturing base. He lived what he preached.

One story is very telling about Roger’s commitment to his county and to his employees. In 1999 a fire destroyed the plant at LaGrange, Georgia burned to the ground. This tragedy happened right after NAFTA had passed, and it would have been a perfect opportunity to move his plant to Mexico to take advantage of lower labor costs. But he did not do that. Instead, Roger found temporary jobs for all of his employees and said he would have the plant up and running again in 6 months. He moved down to LaGrange to personally oversee the rebuilding of the plant, and in true Roger form, the plant was back up and operating within 6 months.

It’s unlikely there will ever be another Roger Milliken. He was truly one-of-a-kind. But our country needs more leaders like him who are guided by principles and not by profits. It needs more corporations who are committed to their country. More who believe that the best solution is not always the easiest solution but that hard work and creativity will forge a better, more sustainable path. We need more corporations to carry Roger’s torch of corporate patriotism and a commitment to making things in America.

I urge all of my colleagues on both sides of the aisle to work with me to remember Roger Milliken. Through bipartisan, collaborative efforts to promote American manufacturing and to fix our trade policy, we can make the most of the paths he forged and the standards he set. We can honor him in the way he would have wanted to be honored: by being more innovative, working harder and advancing the notion that corporate patriotism is better and more sustainable for all Americans.

Mr. Speaker, please join me in expressing sincere condolences to Roger’s family, Milliken Company and Associates, all of his community in South Carolina, to his co-advocates in the manufacturing and trade community and all those who were blessed to know him. He will be missed.

HONORING FREDERICK “RICK” OBER, RESPECTED WOODROW WILSON HIGH SCHOOL TEACHER

HON. ROBERT E. ANDREWS
OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES
Tuesday, January 25, 2011

Mr. ANDREWS. Mr. Speaker, I rise today to honor Mr. Rick Ober for his service to the students of Woodrow Wilson High School.

A graduate of Rutgers School of Law-Camden, Mr. Ober practiced criminal law in southern New Jersey and Pennsylvania prior to beginning his teaching career. He currently teaches U.S. history, urban studies, civics and government at Woodrow Wilson High School in Camden.

Mr. Ober also leads the school’s award-winning New Jersey Model Congress Team and acts as an advisor for the student government. Additionally, he was elected as the union head for Woodrow Wilson’s Camden Education Association.

Mr. Ober is also a founder of the Woodrow Wilson High School Candidate’s Forum, a program that brings politicians, including Senator Arlen Specter and Governor Jon Corzine, into the school to discuss current political issues with the students. Incorporating his love of music and teaching, Mr. Ober is involved with the Symphony in C of Haddonfield both through performance and education. Mr. Ober has also brought classical music education to underserved communities through the Classroom Symphony Project.

Mr. Ober helped to develop a program that prepared developmentally disabled adults to attend symphony performances.

I am happy to announce that Mr. Ober will soon be honored as a community leader by Rutgers School of Law-Camden at the Champions of Social Justice and Equality Banquet.

Mr. Speaker, I am proud to honor Mr. Ober for his work with the students of Woodrow Wilson High School and his efforts to bring government to life for the children of Camden.

HONORING RALPH GILL UPON THE OCCASION OF HIS RETIREMENT

HON. RODNEY ALEXANDER
OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES
Tuesday, January 25, 2011

Mr. ALEXANDER. Mr. Speaker, I rise today to commend Mr. Ralph Gill, for his exceptional service to the Parish of Rapides on the occasion of his retirement as Tax Assessor. After 42 years of service in the Rapides Parish Assessor’s Office, Mr. Gill’s retirement becomes effective January 31, 2011.

While in this capacity, Mr. Gill served as assessor for the past 16 years and credits the work as both a challenging and rewarding experience that has more than fulfilled his life’s goal of serving the public. He is very proud of his accomplishments during his tenure as Tax Assessor and is grateful to the people of Rapides Parish for the confidence and support they gave him throughout his career. Mr. Gill believes his success would not have been possible without the support of the outstanding men and women he has worked with throughout the years.

Following his rewarding career of community service, he looks forward to spending more time with his wife, children and grandchildren. He also intends to work on his farm and possibly enjoy some traveling.

I ask my colleagues to join me in congratulating Mr. Ralph Gill, a man who has served the people of Rapides Parish for over four decades. His commitment, compassion and leadership warrant this laudable recognition.

INTRODUCING LEGISLATION TO MAKE THE DEDUCTION FOR STATE AND LOCAL SALES TAXES PERMANENT

HON. C.W. BILL YOUNG
OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES
Tuesday, January 25, 2011

Mr. YOUNG of Florida. Mr. Speaker, today I introduced legislation that would make the deduction for state and local sales taxes permanent. Unlike state income taxes, the deductibility of which has long been a permanent fixture of the tax code, the citizens in states with only a sales tax—including my home state of Florida—have been forced to rely on short-term extensions of the sales tax deduction from year to year.

Without this deduction, taxpayers in the nine states with no state income tax, including Alaska, Florida, Nevada, New Hampshire, South Dakota, Tennessee, Texas, Washington, and Wyoming, would not have the opportunity to deduct from their federal tax obligation the sales taxes paid to their state and local governments. This measure helps to level the playing field for the taxpayers in these states, allowing them to deduct state taxes like those in income tax states. Making this deduction permanent enjoys broad bipartisan support, and more than 11 million taxpayers utilized this deduction in 2008.

Making the deduction permanent provides certainty to the taxpayers, allows for more efficient financial planning, and ensures fairness in the tax code for taxpayers in states without an income tax.

In closing, I urge the Committee on Ways and Means to consider this proposal as they begin to consider ways to make the tax code simpler and more efficient.

IN RECOGNITION OF MICHELE JACKSON

HON. JACKIE SPEIER
OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES
Tuesday, January 25, 2011

Ms. SPEIER. Mr. Speaker, I rise to honor Michele Jackson, Executive Director of Shelter Network for the last 10 years. Michele is a true professional and has been an exceptional leader of this wonderful agency. Shelter Network, a godsend to our country, has helped thousands of homeless families and individuals in San Mateo County find homes and become self-sufficient since 1987.
As a member of the advisory board I have witnessed how Michele and Shelter Network have turned lives around and reintegrated homeless families into our community.

She initiated the designing, opening and maintaining of shelters that meet the needs of homeless families. In 2000, she oversaw the rebuilding and reopening of Haven Family House in Menlo Park. She led campaigns to rebuild First Step for Families in San Mateo in 2004 and to renovate Redwood Family House in Redwood City in 2006.

Michele has turned Shelter Network into a model organization for our community, our county and the world. Under her guidance, services for homeless families and individuals have expanded and new ones created, among them the Motel Voucher and Homeless Outreach programs, The Vendome which houses chronically homeless adults, rapid re-housing and prevention initiatives like Housing First and HPRP, mental health services for children and the Shelter Network’s Alumni Association.

In addition to running Shelter Network, Michele has dedicated her time and energy to volunteer for many worthy causes. She is a board member of HEART, the Housing Endowment and Regional Trust, and of Local Emergency Food and Shelter FEMA/EHAP. Michele is the Chair of the Executive Committee for the San Mateo County Continuum of Care, a member of the Interagency Council for HOPE: San Mateo County’s 10-Year Plan to End Homelessness. She also is a member of CHRAC, the Community Health Reform Advocacy Committee, and San Mateo County’s Housing Operations and Policy Committee. Michele serves as the secretary and board member of Riley’s Place, a non-profit organization dedicated to enrich the lives of low-income or chronically ill children through interaction with animals.

Michele’s altruism and dedication to those in need have earned her many friends and fans—including myself—and well deserved awards. In 2003, she received the Heart of Social Work Award from the National Council on Social Work Education for excellence in field instruction. In 2010, she was presented with the Housing Leadership Day Award by San Mateo County’s Housing Leadership Council.

Michele earned both her Bachelor and Masters of Social Work from San Francisco State University. She lives in Belmont with her husband Bill Jackson. I have no doubt she will stay engaged in the community during her retirement and find more time to enjoy her family, ride her horse Tywy, spend time with her new puppy, travel and read.

Mr. Speaker, I ask this body to join me in honoring Michele Jackson for her decade as Executive Director of Shelter Network and for her three decades in social work on this day of her retirement, January 26, 2011.

IN MEMORY OF WILLIAM BOLDENWECK

HON. JACKIE SPEIER
OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES
Tuesday, January 25, 2011

Ms. SPEIER. Mr. Speaker, I rise to honor William Boldenweck, who leaves behind an extraordinary legacy as a journalist and teacher. Mr. Boldenweck passed away January 11, 2011, at the age of 79 and is survived by his wife Lynn Boldenweck and two sons William C. Boldenweck III and Stephen Boldenweck.

Mr. Boldenweck spent over three decades as a reporter for the San Francisco Examiner and two decades as a journalism teacher at San Francisco State University. He started his journalism career after his military career with the U.S. Marine Corps reserve.

Mr. Boldewek, a Portland, Oregon native, was called up in the Korean War in 1950. He was in combat in the Inchon invasion, a battle that recaptured Seoul. He was also at the legendary battle at Chosin Few, the decisive battle of the Korean War. He never missed a reunion of that veterans group.

After the war, Mr. Boldenweck enrolled in San Francisco City College and San Francisco State University. He became a reporter at the Marin Independent Journal and was quickly snatched by the Examiner in 1960.

Mr. Boldenweck was a classic newspaper reporter, the kind that are far and few between today. His colleagues admired his ability as a journalist saying he could cover any story and was the best barroom story teller of his generation. He was also loved by his friends for his affable personality.

On the first day of class every semester at San Francisco State University, he shocked his beginning journalism students by making them write their own obituaries. His justification for that was that it would help them impart the reality of journalism and make them focus on the facts that matter.

At the end of his own life, though, he left the writing of his obituary to his fellow reporters.

Mr. Speaker, I ask this body to join me in honoring an extraordinary man of letters, William Boldenweck, who I was blessed to call a friend, for his service to our country and for his dedication and contributions to the profession of journalism.
HIGHLIGHTS

House and Senate met in Joint Session to receive a State of the Union Address from the President of the United States.

Senate

Chamber Action

Routine Proceedings, pages S71–S247

Measures Introduced: One hundred eighty-seven bills and fifteen resolutions were introduced, as follows: S. 1–187, S.J. Res. 1–2, S. Res. 14–25, and S. Con. Res. 3.

Measures Passed:

Joint Session of Congress: Senate agreed to H. Con. Res. 10, providing for a joint session of Congress to receive a message from the President.

Honoring Staff Sergeant Salvatore Giunta: Senate agreed to S. Con. Res. 3, honoring the service and sacrifice of Staff Sergeant Salvatore Giunta, a native of Hiawatha, Iowa, and the first living recipient of the Medal of Honor since the Vietnam War.

Tragedy in Tucson Resolution—Agreement: A unanimous-consent-time agreement was reached providing that at 10:30 a.m., on Wednesday, January 26, 2011, Senate begin consideration of S. Res. 14, honoring the victims and heroes of the shooting on January 8, 2011 in Tucson, Arizona; that there be 3½ hours of debate equally divided between the Majority Leader and Republican Leader, or their designees; that upon the use or yielding back of time, Senate vote on the adoption of the resolution; that there be no amendments, motions or points of order in order prior to the vote on adoption.

Message from the President: Senate received the following message from the President of the United States:

Transmitting the report on the State of the Union delivered to a Joint Session of Congress on January 25, 2011; which was ordered to lie on the table. (PM–2)

Pages S112–17

Messages from the House:

Measures Referred:

Measures Held at the Desk:

Measures Read the First Time:

Measures Held Over/Under Rule:

Executive Communications:

Additional Cosponsors:

Statements on Introduced Bills/Resolutions:

Additional Statements:

Privileges of the Floor:

Adjournment: Senate convened at 10 a.m. and adjourned at 10:20 p.m., until 9:30 a.m. on Wednesday, January 26, 2011. (For Senate’s program, see the remarks of the Majority Leader in today’s Record on page S247.)

Committee Meetings

(Committees not listed did not meet)

No committee meetings were held.
Chamber Action

Public Bills and Resolutions Introduced: 34 public bills, H.R. 412–445; 1 private bill, H.R. 446; and 5 resolutions, H. Con. Res. 12; and H. Res. 52–53, 55–56 were introduced.

Additional Cosponsors:

Report Filed: A report was filed today as follows:

H. Res. 54, providing for consideration of the bill (H.R. 359) to reduce Federal spending and the deficit by terminating taxpayer financing of presidential election campaigns and party conventions (H. Rept. 112–5).

Speaker: Read a letter from the Speaker wherein he appointed Representative McClintock to act as Speaker pro tempore for today.

Recess: The House recessed at 10:33 a.m. and reconvened at 12 noon.

Committee Elections: The House agreed to H. Res. 52, electing Members to certain standing committees of the House of Representatives.

Committee Elections: The House agreed to H. Res. 53, electing certain Members to certain standing committees of the House of Representatives.

Suspensions: The House agreed to suspend the rules and pass the following measures:

- **Staff Sergeant Salvatore A. Giunta Medal of Honor Flag Resolution:** H. Res. 49, to provide Capitol-flown flags for recipients of the Medal of Honor, by a 2/3 yea-and-nay vote of 424 yeas with none voting “nay”, Roll No. 21 and Pages H443–45, H456–57

- **Providing for an additional temporary extension of programs under the Small Business Act:** H.R. 366, to provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958.

- **Reducing non-security spending to fiscal year 2008 levels or less:** The House agreed to H. Res. 38, to reduce non-security spending to fiscal year 2008 levels or less, by a yea-and-nay vote of 256 yeas to 165 nays, Roll No. 20.

- **Rejected the Bishop (NY) motion to recommit the bill to the Committee on Rules with instructions to report the same to the House forthwith with amendments, by a yea-and-nay vote of 184 yeas to 242 nays with 1 voting “present”, Roll No. 19.**

Pursuant to the rule, the amendment in the nature of a substitute recommended by the Committee on Rules now printed in the resolution shall be considered as adopted.

H. Res. 43, the rule providing for consideration of the resolution, was agreed to yesterday, January 24th.

Board of Trustees for the John C. Stennis Center for Public Service Training and Development—Appointment: Read a letter from Representative Pelosi, Minority Leader, in which she appointed Representative Terri Sewell to the Board of Trustees for the John C. Stennis Center for Public Service Training and Development for a term of six years.

**State of the Union Address:** President Barack Obama delivered his State of the Union address to a joint session of Congress, pursuant to the provisions of H. Con. Res. 10. He was escorted into the House Chamber by a committee comprised of Representatives Cantor, McCarthy (CA), Hensarling, Sessions, Price (GA), McMorris Rodgers, Carter, Pelosi, Hoyer, Clyburn, Larson (CT), Becerra, Israel, and Sewell and Senators Reid, Durbin, Schumer, Murray, Stabenow, Begich, Leahy, McConnell, Kyl, Alexander, Barrasso, Thune, and Cornyn. The President’s message was referred to the Committee of the Whole House on the State of the Union and ordered printed (H. Doc. 112–1). Pages H457–62

**Senate Message:** Message received from the Senate by the Clerk and subsequently presented to the House today appears on page H443.

Amendments: Amendments ordered printed pursuant to the rule appear on page H472.

Quorum Calls—Votes: Three yea-and-nay votes developed during the proceedings of today and appear on pages H455, H455–56, H456. There were no quorum calls.

Adjournment: The House met at 10 a.m. and adjourned at 10:21 p.m.

Committee Meetings

**COMMITTEE ORGANIZATION**

**Committee on Agriculture:** Met for organizational purposes. Committee adopted its rules of procedure for the 112th Congress.
COMMITTEE ORGANIZATION

Committee on Education and the Workforce: Met for organizational purposes. Committee adopted an Oversight Plan for the 112th Congress.

COMMITTEE ORGANIZATION

Committee on Financial Services: Met for organizational purposes. Committee adopted its rules of procedure for the 112th Congress.

BRIEFING—U.N. URGENT PROBLEMS NEED CONGRESSIONAL ACTION

Committee on Foreign Affairs: Held a briefing on the United Nations: Urgent Problems that Need Congressional Action. The Committee was briefed by public witnesses.

COMMITTEE ORGANIZATION

Committee on House Administration: Met for organizational purposes. Committee adopted its rules of procedure and its Oversight Plan for the 112th Congress.

INTERNET CRIME INVESTIGATION DATA RETENTION

Committee on the Judiciary, Subcommittee on Crime, Terrorism, and Homeland Security held a hearing on Data Retention as a Tool for Investigating Internet Child Pornography and Other Internet Crimes. Testimony was heard from Jason M. Weinstein, Deputy Assistant Attorney General, Department of Justice; and public witnesses.

U.S. PATENT AND TRADEMARK OFFICE IMPROVEMENT

Committee on the Judiciary: Subcommittee on Intellectual Property, Competition, and the Internet held a hearing on How an Improved U.S. Patent and Trademark Office Can Create Jobs. Testimony was heard from David Kappos, Under Secretary, Intellectual Property and Director, U.S. Patent and Trademark Office, Department of Commerce; and public witnesses.

COMMITTEE ORGANIZATION

Committee on Oversight and Government Reform: Met for organizational purposes. The Committee adopted its rules of procedure for the 112th Congress.

CUTTING TAX PAYER CAMPAIGN PARTY CONVENTION FINANCING

Committee on Rules: Granted, by a record vote of 7 to 4, a modified open rule providing one hour of general debate equally divided among and controlled by the chairmen and ranking minority members of the Committee on Ways and Means and the Committee on House Administration. The rule waives all points of order against consideration of the bill. After general debate the bill shall be considered for amendment under the five-minute rule for a period not to exceed five hours. The bill shall be considered as read. The rule provides that all points of order against provisions in the bill are waived. The rule makes in order only those amendments that have been preprinted in the Congressional Record or pro forma amendments for the purpose of debate. The rule provides that each amendment printed in the Congressional Record may be offered only by the Member who caused it to be printed or a designee, and that each amendment shall be considered as read. Finally, the rule provides one motion to recommit with or without instructions. Testimony was heard from Chairman Lungren, and Representatives Cole, Brady of Pennsylvania, David E. Price of North Carolina, and Jackson-Lee.

PENDING FREE TRADE AGREEMENTS;

COMMITTEE ORGANIZATION

Committee on Ways and Means: Held a hearing on pending Free Trade Agreements. Testimony was heard from public witnesses.

Prior to the hearing, the Committee held an additional organizational meeting.

Joint Meetings

No joint committee meetings were held.

NEW PUBLIC LAWS

(For last listing of Public Laws, see DAILY DIGEST, p. D8)

H.R. 81, to amend the High Seas Driftnet Fishing Moratorium Protection Act and the Magnuson-Stevens Fishery Conservation and Management Act to improve the conservation of sharks. Signed on January 4, 2011. (Public Law 111–348)

H.R. 628, to establish a pilot program in certain United States district courts to encourage enhancement of expertise in patent cases among district judges. Signed on January 4, 2011. (Public Law 111–349)


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
H.R. 2751, to amend the Federal Food, Drug, and Cosmetic Act with respect to the safety of the food supply. Signed on January 4, 2011. (Public Law 111–352)

H.R. 4445, to amend Public Law 95–232 to repeal a restriction on treating as Indian country certain lands held in trust for Indian pueblos in New Mexico. Signed on January 4, 2011. (Public Law 111–353)

H.R. 4602, to designate the facility of the United States Postal Service located at 1332 Sharon Copley Road in Sharon Center, Ohio, as the “Emil Bolas Post Office”. Signed on January 4, 2011. (Public Law 111–354)


H.R. 5116, to invest in innovation through research and development, to improve the competitiveness of the United States. Signed on January 4, 2011. (Public Law 111–358)

H.R. 5133, to designate the facility of the United States Postal Service located at 331 1st Street in Carlstadt, New Jersey, as the “Staff Sergeant Frank T. Carvill and Lance Corporal Michael A. Schwarz Post Office Building.” Signed on January 4, 2011. (Public Law 111–359)

H.R. 5470, to exclude an external power supply for certain security or life safety alarms and surveillance system components from the application of certain energy efficiency standards under the Energy Policy and Conservation Act. Signed on January 4, 2011. (Public Law 111–360)

H.R. 5605, to designate the facility of the United States Postal Service located at 47 East Fayette Street in Uniontown, Pennsylvania, as the “George C. Marshall Post Office”. Signed on January 4, 2011. (Public Law 111–361)

H.R. 5606, to designate the facility of the United States Postal Service located at 47 South 7th Street in Indiana, Pennsylvania, as the “James M. ’Jimmy’ Stewart Post Office Building”. Signed on January 4, 2011. (Public Law 111–362)

H.R. 5655, to designate the Little River Branch facility of the United States Postal Service located at 140 NE 84th Street in Miami, Florida, as the “Jesse J. McCrary, Jr. Post Office”. Signed on January 4, 2011. (Public Law 111–363)


H.R. 5877, to designate the facility of the United States Postal Service located at 655 Centre Street in Jamaica Plain, Massachusetts, as the “Lance Corporal Alexander Scott Arredondo, United States Marine Corps Post Office Building”. Signed on January 4, 2011. (Public Law 111–365)

H.R. 5901, to amend the Internal Revenue Code of 1986 to authorize the tax court to appoint employees. Signed on January 4, 2011. (Public Law 111–366)

H.R. 6392, to designate the facility of the United States Postal Service located at 5003 Westfields Boulevard in Centreville, Virginia, as the “Colonel George Juskalian Post Office Building”. Signed on January 4, 2011. (Public Law 111–367)

H.R. 6400, to designate the facility of the United States Postal Service located at 111 North 6th Street in St. Louis, Missouri, as the “Earl Wilson, Jr. Post Office”. Signed on January 4, 2011. (Public Law 111–368)

H.R. 6412, to amend title 28, United States Code, to require the Attorney General to share criminal records with State sentencing commissions. Signed on January 4, 2011. (Public Law 111–369)

H.R. 6510, to direct the Administrator of General Services to convey a parcel of real property in Houston, Texas, to the Military Museum of Texas. Signed on January 4, 2011. (Public Law 111–370)

H.R. 6533, to implement the recommendations of the Federal Communications Commission report to the Congress regarding low-power FM service. Signed on January 4, 2011. (Public Law 111–371)

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. Signed on January 4, 2011. (Public Law 111–372)

S. 841, to direct the Secretary of Transportation to study and establish a motor vehicle safety standard that provides for a means of alerting blind and other pedestrians of motor vehicle operation. Signed on January 4, 2011. (Public Law 111–373)

S. 1481, to amend section 811 of the Cranston-Gonzalez National Affordable Housing Act to improve the program under such section for supportive housing for persons with disabilities. Signed on January 4, 2011. (Public Law 111–374)

S. 3036, to establish the National Alzheimer’s Project. Signed on January 4, 2011. (Public Law 111–375)

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 initiate all periodic background reinvestigations of certain law enforcement personnel. Signed on January 4, 2011. (Public Law 111–376)


S. 3481, to amend the Federal Water Pollution Control Act to clarify Federal responsibility for stormwater pollution. Signed on January 4, 2011. (Public Law 111–378)

S. 3592, to designate the facility of the United States Postal Service located at 100 Commerce Drive in Tyrone, Georgia, as the “First Lieutenant Robert Wilson Collins Post Office Building”. Signed on January 4, 2011. (Public Law 111–379)

S. 3874, to amend the Safe Drinking Water Act to reduce lead in drinking water. Signed on January 4, 2011. (Public Law 111–380)

S. 3903, to authorize leases of up to 99 years for lands held in trust for Ohkay Owingeh Pueblo. Signed on January 4, 2011. (Public Law 111–381)

S. 4036, to clarify the National Credit Union Administration authority to make stabilization fund expenditures without borrowing from the Treasury. Signed on January 4, 2011. (Public Law 111–382)


**COMMITTEE MEETINGS FOR WEDNESDAY, JANUARY 26, 2011**

(Committee meetings are open unless otherwise indicated)

**Senate**

Committee on Energy and Natural Resources: To hold hearings to examine the report and recommendations, including any recommendations for legislative action, issued by the National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, 9:30 a.m., SR–325.

Committee on Environment and Public Works: To hold hearings to examine transportation’s role in supporting the economy and job creation, 10 a.m., SD–406.

Committee on the Judiciary: To hold hearings to examine protecting American taxpayers, focusing on accomplishments and ongoing challenges in the fight against fraud, 10:30 a.m., SD–226.

**House**

Committee on Armed Services, hearing on proposed Department of Defense budget reductions and efficiencies initiatives, 10 a.m., 2118 Rayburn.

Committee on the Budget, to meet for organizational purposes, including consideration of the Committee Oversight Plan for the 112th Congress, 9 a.m; and to hold a hearing on the Fiscal Consequence of the Health Care Law, 10 a.m., 210 Cannon.

Committee on Education and the Workforce, hearing on State of the American Workforce, 2 p.m., 2175 Rayburn.

Committee on Energy and Commerce, Subcommittee on Oversight and Investigations, hearing entitled “The Views of the Administration on Regulatory Reform,” 10 a.m., 2123 Rayburn.

Committee on Financial Services, hearing to discuss Promoting Economic Recovery and Job Creation: The Road Forward, 10 a.m., 2128 Rayburn.

Committee on Homeland Security, to meet for organizational purposes, 10 a.m., 311 Cannon.

Committee on the Judiciary, to mark up the following: H.R. 394, Federal Courts Jurisdiction and Venue Clarification Act of 2011; H.R. 398, To amend the Immigration and Nationality Act to toll, during active-duty service abroad in the Armed Forces, the periods of time to file a petition and appear for an interview to remove the conditional basis for permanent resident status; H.R. 386, Securing Aircraft Cockpits Against Lasers Act of 2011; H.R. 368, Removal Clarification Act of 2001, and H.R. 347, Federal Restricted Buildings and Grounds Improvement Act of 2011, 10 a.m., 2141 Rayburn.

Subcommittee on Immigration Policy and Enforcement, hearing on ICE Worksite Enforcement—Up to the Job? 1 p.m., 2141 Rayburn.

Committee on Oversight and Government Reform, hearing on Bailouts and the Foreclosure Crisis: Report of the Special Inspector General for the Troubled Asset Relief Program ("SIGTARP"), 9:30 a.m., 210–HVC.

Committee on Small Business, to meet for organizational purposes, 1 p.m., 2360 Rayburn.

Committee on Transportation and Infrastructure, to meet for organizational purposes, 10:30 a.m., 2167 Rayburn.

Committee on Veterans’ Affairs, to meet for organizational purposes, 10 a.m., 334 Cannon.

Committee on Ways and Means, hearing on the impact of the Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act of 2010, 9 a.m., 1100 Longworth.
Next Meeting of the SENATE
9:30 a.m., Wednesday, January 26

Senate Chamber

Program for Wednesday: After the transaction of any morning business (not to extend beyond 10:30 a.m.), Senate will begin consideration of S. Res. 14, honoring the victims and heroes of the shooting on January 8, 2011 in Tucson, Arizona, and after a period of debate, vote on adoption of the resolution, at approximately 2 p.m.

Next meeting of the HOUSE OF REPRESENTATIVES
10 a.m., Wednesday, January 26

House Chamber

Program for Wednesday: Consideration of H.R. 359—to reduced Federal spending and the deficit by terminating taxpayer financing of presidential election campaigns and party conventions (Subject to a Rule).

Extensions of Remarks, as inserted in this issue

Gingrey, Phil, Ga., E108
Graves, Sam, Mo., E105, E107, E107, E108, E108
Hanna, Richard L., N.Y., E109
Kucinich, Dennis J., Ohio, E106, E107
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Turner, Michael R., Ohio, E107
Wolf, Frank R., Va., E106
Young, C.W. Bill, Fla., E112

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