The Senate met at 2 p.m. and was called to order by the Honorable Richard Blumenthal, a Senator from the State of Connecticut.

PRAYER
The Chaplain, Dr. Barry C. Black, offered the following prayer:
Let us pray.
Merciful God, take possession of our hearts so that we will do Your will. Use us for Your glory as beacons of light and inspiration in our Nation and world. We desire for Your name to receive the honor it is due. So show us Your ways and teach us Your path. Lord, be gracious to the Members of this body, showering them liberally with Your wisdom. Let Your love fill and rule their lives, preparing them for that bliss You will give to those who love You.
We pray in Your great name. Amen.

PLEDGE OF ALLEGIANCE
The Honorable Richard Blumenthal led the Pledge of Allegiance as follows:
I pledge allegiance to the Flag of the United States of America and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE
The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Inouye).
The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 9, 2011.

To the Senate:
Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable Richard Blumenthal, a Senator from the State of Connecticut, to perform the duties of the Chair.

Mr. BLUMENTHAL, thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER
The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE
Mr. REID. Mr. President, following the ceremony that will take place very shortly, and following any leader remarks, the Senate will be in morning business until 4:30 p.m. At that time there will be 1 hour of debate on the nomination of James Cole to be Deputy Attorney General. At approximately 5:30, there will be a cloture vote on the Cole nomination.

Last week, we were able to enter into a consent agreement on the nomination of Edward Chen. We expect to vote on this nomination sometime this week.

I note the absence of a quorum.
The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

CERTIFICATE OF APPOINTMENT
The VICE PRESIDENT. The Chair lays before the Senate the certificate of appointment to fill the vacancy created by the resignation of former Senator John Ensign of Nevada. The certificate, the Chair is advised, is in the form suggested by the Senate.

If there be no objection, the reading of the certificate will be waived and it will be printed in full in the RECORD.

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

STATE OF NEVADA
Executive Department
CERTIFICATE OF APPOINTMENT
To the President of the Senate of the United States:
This is to certify that, pursuant to the power vested in me by the Constitution of the United States and the laws of the State of Nevada, I, Brian Sandoval, the governor of said State, do hereby appoint Dean Heller a Senator from said State to represent said State in the Senate of the United States until the vacancy therein caused by the resignation of John Ensign, is filled by election as provided by law.

Witness: His excellency our governor Brian Sandoval, and our seal hereto affixed at Carson City, Nevada, this third day of May, in the year of our Lord 2011.

By the governor:
BRIAN SANDOVAL,
Governor.
ROSS MILLER,
Secretary of State.

[State Seal Affixed]

ADMINISTRATION OF OATH OF OFFICE
The VICE PRESIDENT. If the Senator-designate will now present himself at the desk, the Chair will administer the oath of office.
The Senator-designate, Dean Heller, escorted by Mr. Reid, advanced to the desk of the Vice President; the oath prescribed by law was administered to him by the Vice President; and he subscribed to the oath in the Official Oath Book.

*This “bullet” symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.*
The VICE PRESIDENT. Congratulations.
Mr. HELLER. Thank you very much.
(Applause. Senators rising.)
Mr. UDALL of New Mexico. I suggest the absence of a quorum.
The ACTING PRESIDENT pro tempore. The clerk will call the roll.
The legislative clerk proceeded to call the roll.
Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.
The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MEASURE PLACED ON THE CALENDAR—H.R. 3
Mr. REID. Mr. President, I am told that H.R. 3 is at the desk and due for a second reading.
The ACTING PRESIDENT pro tempore. The clerk will read the bill by title for the second time.
The legislative clerk read as follows:

A bill (H.R. 3) to prohibit taxpayer funded abortions and to provide for conscience protections, and for other purposes.

Mr. REID. Mr. President, I would now object to any further proceedings at this time.
The ACTING PRESIDENT pro tempore. Objection having been heard, the bill will be placed on the calendar under rule XIV.

SCHEDULE
Mr. REID. Mr. President, every time we have a peaceful transfer of power at any level of our government, it speaks to the strength of our democracy. Today is no different.

Today, Nevada welcomes our newly appointed Senator, Dean Heller—until last week, Congressman Heller—to this side of the Capitol. Nevada is still reeling, more than most, from the Wall Street recession that crashed our housing and jobs markets. I look forward to working with our new junior Senator to make the tough choices that will help our State and our citizens recover.

The Senate will soon confront one of those tough choices. We will continue our conversation about how to save taxpayer money and lower our Nation’s deficit and debt. We have to recognize that we cannot do either so long as we keep giving away money to oil companies that clearly do not need taxpayer handouts. As gas prices and oil company profits keep rising, each Senator will soon have the opportunity to stand with the millionaires or with the middle class.

Also, today the Senate will vote on whether to advance the nomination of the Attorney General’s top deputy, Jim Cole. The Deputy Attorney General runs the day-to-day operations at the Department of Justice. He also supervises the National Security Division and makes critical decisions each day that affect the safety of our great Nation. For instance, Jim Cole is one of the only people at the Department of Justice who can sign the critical warrants that permit our intelligence officials to conduct surveillance on suspected terrorists.

In the last week, our country has been reminded of the incredibly important role our intelligence community plays. It is unthinkable that partisanship and legislative ploys are keeping a public servant as well qualified as Jim Cole out of an important national security role. I hope the Senate will confirm him quickly this evening.

RECOGNITION OF THE MINORITY LEADER
The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

WELCOMING SENATOR HELLER
Mr. McCONNELL. Mr. President, first, if ever there was a moment to stand with the American people in our new colleague, Dean Heller. The majority leader is giving a reception for him this afternoon. We hope many Members will take the opportunity to go by and welcome him to the Senate.

GAS PRICES
Mr. McCONNELL. Mr. President, I am going to devote my leader time this afternoon to an issue which may not be on the Democrats’ legislative agenda this week but which is certainly on the minds of most Americans every day. I am referring, of course, to the high cost of gasoline. All across the country, people are suffering from the run up in gas prices we have seen over the past few months. It is squeezing family budgets, tightening margins at already struggling small businesses, and it poses a mortal threat to any economic rebound.

This is a critical issue. Americans are looking for answers. Yet all they are getting from the President and the Democratic leaders in Congress are gimmicks and deflection. We have seen this before. Every time gas prices go up, Democrats claim there is nothing they can do about it. Then they propose something completely counter-productive just to quiet their critics. This time, it is a tax increase. That is the Democratic response to high gas prices—a tax hike.

Well, the first thing to say about this proposal is that it will not do a thing to lower gas prices—not a thing. In fact, raising taxes on American energy production will increase the price of gas. Oh, and it would also make us even more dependent on foreign sources of oil. Now, that is not my view. That is the view of the independent Congressional Research Service, which concluded in March that the Democrats’ proposed tax increase on energy production would “make oil and natural gas more expensive for U.S. consumers and likely increase foreign dependence.” It sounds like a brilliant strategy to me.

Beyond raising taxes, Democrats insist there is nothing they can do about gas prices, but I think most Americans feel differently. I think Americans believe it is time to stop talking about what we cannot do and start talking about what we can do. If the President and Democrats in Congress are truly serious about lowering gas prices, they will stop making things much more dependent on foreign sources of oil, here are a few suggestions.

First, if ever there was a moment to develop our resources here at home, it is now. For decades, Democrats have resisted efforts to tap our American resources. Then when gas prices go up, they tell us how many years it would take to get the product to market. It is time to take this excuse off the table by breaking the cycle.

Second, Democrats need to allow energy companies to cut through the bureaucratic redtape that prevents companies that are authorized to explore and develop our resources here at getting to work and putting thousands of Americans back to work.

Third, they need to stop penalizing America’s producers with new fees and threats of tax hikes, which only drive energy companies overseas and help our foreign competitors and create jobs in places such as Venezuela. And they need to call an end to the anti-energy crusade of the EPA.

In short, Democrats need to throw away the old playbook—throw that one away—and face this crisis with a new kind of creativity, independence, and common sense that the American people are demanding.

Democrats need to stop deflecting attention from their own complicity in our Nation’s overdependence on foreign oil. They need to stop paying lip service to the need for American exploration while quietly supporting efforts to suppress. They need to stop the approach that has not changed, frankly, since the days of Jim Carter. Just like Carter before them, today’s Democrats are using the crisis of the moment as an excuse to push their own vision of the future with a “windfall profits tax” on energy companies. And just like Carter before them, they have rightly been accused of bringing a BB gun to the war.

This is a serious crisis. It is time for serious solutions—solutions that create jobs instead of moving them overseas, solutions that decrease our dependence on foreign sources of oil rather than increase it, solutions that offer relief rather than mere rhetoric.

Mr. President, 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 for debate only until 4:30 p.m., with Senators permitted to speak therein for up to 10 minutes each.

The Senator from Arizona.

WELCOMING SENATOR HELLER

Mr. KYL. Mr. President, I note that Vice President BIDEN was just here in the Chamber for the swearing-in of our newest Senator, DEAN HELLER from Nevada. I add my congratulations to now-Senator HELLER joining this body.

REDUCING THE DEBT

Mr. KYL. Vice President BIDEN has been kind enough to host discussions—starting last week and going into this week and perhaps beyond—with Members of the Senate and the House of Representatives to try to find a way to reduce the huge debt that hangs over the United States, as a prelude, I am sure he would put it, to the Congress acting on the President’s request that Congress increase the debt ceiling.

There have been generally two ways suggested on how to deal with our debt. Many Democrats believe the wealthy in the United States do not pay enough taxes, and therefore one way to reduce the debt is for taxes to be increased, especially on the wealthy. Most Republicans believe that is a bad idea, that since debt is our problem and we got into debt because we have been spending too much, the better way for us to deal with the problem is to begin reducing our spending and to make sure over the years we are able to do that.

There are a couple of interesting things that have just come out in the news recently that I think bear on this argument.

A lot of folks wonder about the debt burden in the United States, and I think it is useful to point out the fact that last week the Wall Street Journal reported that the Joint Committee on Taxation found that “The percentage of U.S. households paying no federal income tax...reached 51% for [the year] 2009.” I think that is the first time in the history of America that over half of Americans didn’t pay Federal income taxes. I do not think that is a good thing. While certainly people in the lower income brackets are not able to pay very much in the way of taxes, I think even a very small amount, an affordable amount, would be appropriate so everybody has at least the feeling that they call skin in the game, so everybody understands the relationship between the burdens and the benefits of government. I would not impose a significant tax on the lower half or certainly not the lower 10 percent, but I think for all Americans I would like to know we all have a stake in this, and that more than half of the people cannot just expect the so-called wealthy to bear all of the burdens of government.

But the question remains, are American wealthy taxpayers undertaxed? I think a useful measure to look at here is a comparison with other countries, for example. The OECD, which stands for Organisation for Economic Co-operation and Development—are generally regarded as the most advanced economies in the world, and the United States is one of those countries. A study based on 2008 statistics found that the highest earning 10 percent of the U.S. population paid the largest share among 24 countries examined, even after adjusting for their relatively higher incomes, and it concluded:

“Taxation is most progressivley distributed in the United States,” the OECD concluded.

The bottom line here is that for a country to be competitive, the people who provide the capital for job creation, for economic growth, have to have some capital remaining after they have earned it in order to invest that capital, return it to their businesses, hire more people, be more productive, actuate investment, and thereby provide for the families of people who own the businesses and, by earning more income, increase the amount the Federal Government and the State government take in as revenues.

Republicans are very happy to concede it would be helpful if the government has more revenues in order to help close this debt gap we have. The question is how we get more revenues. We believe more revenues are a function of a growing economy. Here too some statistics that just came out over the weekend, I believe it was, demonstrated that we can actually delay the increase in the debt ceiling by some period of time because revenues to the Federal Treasury have been a little higher than expected. Why? Because the economy grew more than expected, and as people made more money, they therefore paid more in withholding and in Federal income taxes. This is the way for the government to get more revenue—for the economy to do better, for Americans to do better.

So if you tax more the people who are the ones likely to do the investing into businesses, will you get more in the way of Federal revenue? Well, you will get a little bit more to begin with, but in the long run, you will get less. One of the reasons it is not a good idea to tax more the very people whom we are referring to in this study is because half of all the small business income reported is reported as part of the highest income tax bracket for individuals. In other words, small businesses do not pay as corporations, they pay as individuals, and when a small businessman has to pay all of his reported income to the income from his enterprise. A lot of that is business expense, but that is how he has to report it. So you are talking here about half of all that income reported being taxed at a higher rate, if, in fact, the President and some of his colleagues have their way. That will reduce the amount of investment and growth in the economy and thereby make it harder for us to pay off this large debt.

The advocates of a gigantic tax increase are really very shortsighted, therefore, in assuming that if they raise tax rates, they are going to get more revenues. That is what they tried to do in Japan during the late 1990s. It did not work out. Japan went back into a deep recession, and it is not going to be possible for them to generate existing revenue with their high tax rates.

The way you get robust growth is not with higher tax rates but with lower tax rates. A rapidly expanding economy does create new jobs and income for investment and then taxes enterprises, and obviously some of that wealth flows back to the government and can be used to reduce the debt.

But the policy tools we decide upon in these negotiations will have a lot to say about how we reduce the debt and whether part of that will be a result of economic growth in the future. Obviously, the point here is not just to have economic growth so the Federal Government can have more income tax revenue but to promote American prosperity and a better future for our families.

So the question is, Will we impose tax hikes that discourage investment and punish job creation or will we make the tax system more efficient and conducive to growth?

I wish to cite a couple of studies to show why it is most important for us to focus on reducing spending rather than raising tax rates, because spending cuts, not tax hikes, are the best way to close the massive budget gap and help to produce economic growth in our country.

This study was performed by two Harvard economists, Alberto Alesina and Silvia Ardagna. By studying large-scale fiscal adjustments by wealthy developed countries from 1990 to 2007, they determined that “spending cuts are much more effective than tax increases in stabilizing the debt and avoiding economic downturns.” Moreover, they found “several episodes in which spending cuts adopted to reduce deficits have been associated with economic expansions rather than recessions.”

Two economists at Goldman Sachs, Ben Broadbent and Kevin Daly, undertook a similar study and reviewed every major fiscal policy in wealthy nations since 1975. They found:

Decisive budgetary adjustments that have focused on reducing government expenditures have (i) been successful in correcting fiscal imbalances; (ii) generated significant growth; and (iii) resulted in significant bond and equity market outperformance. Tax-driven fiscal adjustments, by contrast, typically result in negative capital flows and are damaging for growth. So reducing spending was the way not only to reduce the debt of the
country, but it also boosted growth; whereas, tax-driven adjustments had exactly the opposite effect and failed to correct fiscal imbalances and were damaging for growth.

A final study—and I think this is interesting—is one that focuses on what I think are big-spending countries. It is by the same two economists, Broadbent and Daly. They pointed specifically to Ireland, Sweden, and Canada. They pointed out cases driven by cuts as turnaround spending. Sweden, in particular, which is famous for being a generous welfare state, was able to trim the size of government substantially—all of which suggests to me that if Stockholm can do it, Washington ought to be able to do it today.

Reducing the short-term deficit and stabilizing the long-term debt are critically important to American prosperity and living standards, and if you do it by reducing spending rather than increasing tax rates, you can also have the added benefit of increasing prosperity not just for businesses and families but for the U.S. Government, which would then make more in terms of income tax revenues.

The bottom line here is when we work to make sure that there is a bipartisan compromise that everybody is looking to us to reach, we should bear these basics in mind: Cutting spending, not raising taxes, is the answer.

I ask unanimous consent to have two documents printed in the Record. The first one was published in the National Review Online, dated May 9, called “The Future of American Prosperity,” which I authored. The second is a publication which I wrote in weekly-standard.com on May 16, by Frederick Kagan and Kimberly Kagan.

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

![From the National Review Online, May 9, 2011]

**The Future of American Prosperity**

(By Senator Jon Kyl)

SPENDING CUTS, NOT TAX INCREASES, ARE THE SOLUTION TO OUR DEBT CRISIS

Members of both parties agree that Washington’s present fiscal course is dangerously unsustainable. We’re now borrowing 40 cents for every dollar we spend. This profligacy continues to weaken the dollar, threatening its status as the global reserve currency and fostering anxiety in the bond markets. Last month, Standard & Poor’s delivered a sobering wake-up call when it revised its outlook on the U.S. long-term credit rating from “stable” to “negative.”

No question, our accounts must be brought into balance—but not at the expense of economic growth. Those who advocate gigantic tax increases are short-sighted. Amid a sluggish recovery, abrupt tax hikes could drive voters into balance—but not at the expense of economic growth. Those who advocate gigantic tax increases are short-sighted. Amid a sluggish recovery, abrupt tax hikes could drive voters into balance—but not at the expense of economic growth. Those who advocate gigantic tax increases are short-sighted. Amid a sluggish recovery, abrupt tax hikes could drive voters into balance—but not at the expense of economic growth. Those who advocate gigantic tax increases are short-sighted. Amid a sluggish recovery, abrupt tax hikes could drive voters into balance—but not at the expense of economic growth.

Broadbent and Daly pointed to successful fiscal adjustments in Ireland (1987-89), Sweden (1994-98), and Canada (1994-97). In each case, the adjustment was driven primarily by cuts in public spending. Sweden in particular is famous for its tax welfare state. Yet, when faced with a crisis, Swedish officials were able to trim the size of government substantially. If Stockholm could do it back in the mid-1980s, Washington can do it today.

Reducing the short-term deficit and stabilizing the long-term debt are critically important to American prosperity and living standards. But studies show that if fiscal consolidation relies heavily on tax increases, it will stifle economic growth and prove counterproductive.

This is the lesson we must apply as we try to forge a genuine bipartisan compromise to deal with our debt crisis.

![From WeeklyStandard.com, May 16, 2011]

**BIN LADEN IS DEAD . . . BUT AL QAEDA ISN’T—WE SHOULD BUILD ON OUR SUCCESS IN AFGHANISTAN BY REDOUbling OUR EFFORTS TO DEFEND HIS MOVEMENT**

(By Frederick W. Kagan and Kimberly Kagan)

Osama bin Laden’s killing was a great moment for the decent people around the world. But allowing the euphoria of that moment to drive us to irresponsible decisions in South Asia would be devastating to America’s interests and security. Al Qaeda has not yet been dismantled or defeated.

Osama bin Laden’s death has no implications for our counter international forces in Afghanistan, for their mission, or for the timeline for their reduction. George W. Bush sent forces into Afghanistan not because he fancied Al Qaeda as the safe haven there, defeat that organization, and create political conditions that would preclude its return to Afghanistan. Osama bin Laden’s death was a strategic mistake in his December 2009 speech setting out the current strategy. He chose a counter-insurgency approach because a return of the Taliban regime to Afghanistan would allow Al Qaeda to re-establish safe havens there, whether drawing on the historical friendliness between the Taliban and the inability to prevent their return to the country. Furthermore, the proselytized, virulent insurgency creates opportunities for al Qaeda-linked groups to network to invigorate international terrorist groups and use them in the fight in Afghanistan. President Obama has been pursuing the right strategy, and the United States and its international partners have committed to executing it—just barely—adequate to achieve it.

The outcome of the war in Afghanistan hangs in the balance. American forces and their allies made dramatic gains last year, clearing the Taliban out of havens throughout southern Afghanistan, their heartland. Eastern Afghanistan, where al Qaeda-linked groups have a stronger presence, has also seen considerable progress. Contrary to some media reporting, neither Al Qaeda nor the Haqqani network has established safe havens in the wake of the withdrawal of U.S. and NATO forces from bases in Kunar Province. In fact, a series of offensive operations in the valleys and the province has forced greater handover of those organizations. Kunar’s capital, Asadabad, is a growing and increasingly thriving town, as we saw on a recent visit.

A U.S. Army special operations unit in some of the outposts from which U.S. forces withdrew, demonstrating their determination to control their own territory.

Although Al Qaeda has not reestablished sanctuaries in Afghanistan, it has not been for lack of trying. U.S. forces only recently killed a senior Al Qaeda official in Afghanistan and there are reports that Al Qaeda and the Haqqani network, among other Islamist groups, would welcome the opportunity to set themselves up in a lawless Afghanistan once again. The need to help Afghans establish a state that can prevent the reemergence of terrorist sanctuaries remains after bin Laden’s death, and the current strategy, adequately resourced, is the only way to achieve that goal. Calling for accelerating the withdrawal is tantamount to declaring that Afghanistan has become irrelevant with bin Laden’s death; succeeding there is no longer important for America’s security.

Consequently, there is a great deal of fighting ahead. Continued military engagements are needed to make precarious improvements enduring and handle other challenges. The enemy will work hard this year to retake its lost sanctuaries in the south, to conduct spectacular attacks in Kabul and elsewhere, and to strengthen its remaining safe havens in the east. Our priority must be to hold and expand security gains in the south and make progress in the east, but conditions are not set for any major reductions in the pacification zones.

If there is cause for cautious optimism in Afghanistan, there are ample grounds for pessimism on the other fronts in the struggle against militant Islamism. Bin Laden’s presence in Pakistan has once again concentrated the minds of Americans on the fact that Pakistan’s leadership has yet to come to consensus about the need to combat and defeat militant Islamist groups within Pakistan’s borders. Nor has the United States developed any real strategy for dealing with militant Islamism. Bin Laden’s presence in Pakistan has once again concentrated the minds of Americans on the fact that Pakistan’s leadership has yet to come to consensus about the need to combat and defeat militant Islamist groups within Pakistan’s borders. Nor has the United States developed any real strategy for dealing with militant Islamism. Bin Laden’s presence in Pakistan has once again concentrated the minds of Americans on the fact that Pakistan’s leadership has yet to come to consensus about the need to combat and defeat militant Islamist groups within Pakistan’s borders. Nor has the United States developed any real strategy for dealing with militant Islamism. Bin Laden’s presence in Pakistan has once again concentrated the minds of Americans on the fact that Pakistan’s leadership has yet to come to consensus about the need to combat and defeat militant Islamist groups within Pakistan’s borders. Nor has the United States developed any real strategy for dealing with militant Islamism. Bin Laden’s presence in Pakistan has once again concentrated the minds of Americans on the fact that Pakistan’s leadership has yet to come to consensus about the need to combat and defeat militant Islamist groups within Pakistan’s borders. Nor has the United States developed any real strategy for dealing with militant Islamism. Bin Laden’s presence in Pakistan has once again concentrated the minds of Americans on the fact that Pakistan’s leadership has yet to come to consensus about the need to combat and defeat militant Islamist groups within Pakistan’s borders. Nor has the United States developed any real strategy for dealing with militant Islamism.
Laden’s presence in Abbottabad by suspending all aid or military ties or by taking other drastic actions would make it much harder, not easier, to operate against the terrorist threat.

On the contrary, withdrawing forces from Afghanistan and cutting all aid to Pakistan would merely reinforce two of the most prevalent anti-American sentiments in South Asia—those that the United States will always abandon those who rely on it, and that we were only there on our own terms. Anyway, whereby, we should, instead, build on the symbolic victory of killing bin Laden by following through with the president’s strategy to dismantle and defeat the terrorist group it has been our proxies by some in the Pakistani security apparatus. Only by defeating those proxies can we reasonably hope to compel Pakistan to recognize its security interests and develop a policy to oppose and suppress all militant Islamists operating within its borders.

But al Qaeda has not confined itself to its sanctuaries in Pakistan and Afghanistan. Al Qaeda thrives in political weakness and has been in the process of expanding around the globe. The core al Qaeda group of which bin Laden was the head (often referred to as al Qaeda Central) has long had at best only a tenuous control over the operations of its dispersed units, those scattered or in support of other groups. Now that it is no longer controlled by al Qaeda Central, with the death of Laden, al Qaeda has been able to expand more freely than ever. It is an organization that will not keep its control over sanctuaries and resources. But with the death of Laden, al Qaeda’s presence in Libya is at the center of the movement. Such competition, unfortunately, will unfold in the form of spectacular attacks, particularly those conducted on the territory of Western states.

Al Qaeda in the Arabian Peninsula (AQAP), in Yemen, is the most active and perhaps the most dangerous al Qaeda franchise in the world. The Arab Spring has reached Yemen with a vengeance—massive protests have led to the defection of elements of the Yemeni military, with the result that armed forces are concentrating for potential use against the capital and elsewhere in the country. Attempts to broker a negotiated departure for Yemen’s hated president, Ali Abdullah Saleh, have broken down, without clear to what extent any such agreement would keep the peace there for very long in any case. Already Saleh has brought back to his capital some of the elite, U.S.-trained Special Forces units supposedly dedicated to the fight against AQAP. As the work of Katherine Zimmerman at AEI’s Critical Threats Project has shown, almost any likely scenario going forward will give AQAP more freedom to train, plan, stage, and conduct attacks from increasingly lawless tribal areas, with a considerable local support. The combination of Yemen’s slide toward state failure and bin Laden’s death could create a tremendous opportunity for AQAP. His death also may lead to an increase in AQAP’s efforts to conduct spectacular attacks against the United States and the West.

Another al Qaeda affiliate already has control over large portions of a state: Al Shabab is the de facto government of much of southern Somalia outside of Mogadishu. It has not been recognized as an al Qaeda franchise, but its ties with AQAP are long and deep, and its ideology closely mirrors al Qaeda’s. Shabab is kept from controlling all of southern Somalia originally by the presence of peacekeepers from Uganda and Burundi, who have been barely able to hold parts of the capital. Shabab is unlikely to suffer at all from bin Laden’s death, but it may see a chance—or feel the need—to expand the reach of its strikes in sympathy retaliation.

Al Qaeda in Iraq, fortunately, remains relatively ineffective, despite efforts to revive it, especially in the west but, not surprisingly, the success will come to us when we understand the nature of the threat and maintain our efforts to root it out wherever it may be, whether that be in Afghanistan, Iraq, Pakistan, Yemen, Somalia, or elsewhere in the Arab world. The Arab Spring has affected all of them.

His accession to the leadership role could partly on resources Al Qaeda Central dispersed franchises. That control rested largely on the symbolic importation of the charismatic bin Laden. Bin Laden’s likely successor, Egyptian doctor Ayman al-Zawahiri, is far less charismatic. His accession to the leadership role could prompt a competition between Al Qaeda Central and its franchises over which group really is at the center of the movement. Such competition, unfortunately, will unfold in the form of spectacular attacks, particularly those conducted on the territory of Western states.

Success in Afghanistan and Iraq remains vital. American withdrawal from either commitment will be taken throughout the Islamist community as a sign of weakness and, as such, might incline those two theaters is not enough. This moment in the war with militant Islamism is the time to take stock of our global strategy and to develop coherent, coordinated approaches to the dangers already viable on the horizon. No one wants to invade Yemen, Somalia, Libya, or any other country. But the strategies we have been relying on in Libya and Yemen are failing, and we have never had a strategy for Somalia. The United States must seek every possible way of averting the dangers of stalemate, state collapse, and the triumph of al Qaeda groups, preferably without deploying more of our own forces.

It may be that, in the end, America simply cannot be secure if terrorist groups with international ambitions have uncontested control over sanctuaries and resources. But the United States and the West have never yet focused its attention fully on these challenges, let alone focused resources on them. It is past time to do so. Those sincerely concerned with America should be demanding that kind of commitment and should reject utterly the notion that bin Laden’s death will allow us to declare “mission accomplished” and withdraw from the Middle East, and the world.

Mr. KYL. Mr. President, since my time is about expired, I will say this is one of the best statements I have seen recently, by Frederick and Kimberly Kagan, where they write about the result of the death of bin Laden, not offering an excuse to end the war in Afghanistan or our other efforts against al Qaeda but, rather, that the success will come to us when we understand the nature of the threat and maintain our efforts to root it out wherever it may be, whether that be in Afghanistan, Iraq, Pakistan, Yemen, Somalia, or elsewhere in the Arab world. It is an organization that will not keep its control over sanctuaries and resources. But with the death of Laden, al Qaeda has been able to expand more freely than ever. It is an organization that will not keep its control over sanctuaries and resources.

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

FLORIDA VOTING

Mr. NELSON of Florida. Mr. President, I want to call to the attention of the Senate the fact that a number of State legislatures, including our State legislature in Florida, have been enacting election law bills that severely constrict the right of the people to express their vote.

This has just occurred in the State of Florida, with the legislature adjourning in the early morning hours of Saturday, enacting a bill that has been sent to the Governor that would make it harder for the people of Florida to vote, harder for them to have their vote counted, and harder for the people to be able to register to vote.

Common sense would tell you what we ought to be doing is exactly the opposite—that we ought to be making things easier to vote, and especially in a State such as ours, which went through that awful experience in November of 2000, when there was so much chaos, not only in the voting in the Presidential election but then in the counting of the votes. Of course, we remember how the Bush v. Gore in the U.S. Supreme Court, which stopped the recount that was proceeding.

Because of that experience, to the credit of the State legislature, they started to make voting easier. For example, instead of just voting on election day, they had a 2-week period for early voting—something that other States have been doing for some period of time. They have gone to designated polling places prior to election day. It certainly made it a lot easier on the supervisors of elections, the very people who are charged with the responsibility of registering voters and counting the votes. During the last two elections, they have been counting the amount of people coming in to vote over time, so that all of them weren’t there just within a 12-hour period on election day. This has turned out to be so popular in Florida that half of the voters in the last two elections voted prior to election day.

Well, can you believe that the State legislature has seen fit to cut the 14-
day early vote period back to 8, under the guise, well, we are going to make the amount of hours the same by giving the supervisors of elections discretion so that they could increase the voting days on early votes from 8 to 12 hours? But that is a ruse, because that means the election supervisors are going to have to pay time and a half, and those election supervisors are under the same kind of fiscal constraints that all of the other levels of government are right now and, as a result, it is going to happen that the voting hours are not going to be extended, and the State legislature has just constricted the number of voting days from 14 down to 8—and, by the way, they didn’t let it run right up to the day before the election; they backed it off several days before the election, which would be the last day of early voting.

Why, when we want to make it easier to vote? Well, doesn’t the legislature—and House Speaker, who has his bill coming to him—understand that it is a tremendous convenience to senior citizens to make it easier for them, instead of having to stand in a long line on election day, that over a 2-week period they can go and vote in a designated place?

Is there some reason they are trying to make it harder for senior citizens to vote? Well, it could be a lot of politics in this, but the fact is they are making it harder when in fact it ought to be the opposite.

I wish I could report to the Senate that that was the only thing they have done, but it is not. They made it harder to register to vote. As a matter of fact, well-respected organizations, such as the League of Women Voters, for years and years have taken it as their responsibility to go out and try to register people to vote. The League of Women Voters is a nonpartisan organization, its sole goal is to promote activities that promote our democracy. Here is what they did. They said if you go out and register people to vote, and under current law, there is a period of something like 1½ weeks to 2 weeks that you can turn in the names you have registered—no, no, it is not.

This time, what the legislature has done is said if you don’t turn those new registration forms in within 48 hours, you are going to be subject to a fine and possibly a criminal penalty. And the President of the League of Women Voters, Ms. McNabb, has said, in effect, what that means is that they will not put that onus on their members of a fine and a criminal penalty and, in effect, they will stop registering people ahead of time.

What the election laws ought to do is exactly the opposite. We ought to have laws that encourage the registration of voters and try to get more people to participate. But that is not what the Florida legislature has done. It has done exactly the opposite.

I wish I could report to the Senate that was the only thing they have done. But they did more. For four decades, Florida has had a law, in a highly mobile society, if you have moved and you go on election day to cast your vote, and your registration address is different than the address that you show, for example, where you registered to vote in the even Presidential election a year ago—but in the meantime you have moved and your documentation—say, your driver’s license—shows your new address, for four decades the law of Florida has said that a voter can be disallowed to vote. You are going to have to cast a provisional ballot, and you are going to have to have your authenticity certified after the fact.

The experience with provisional ballots in the last Presidential election in Florida, in 2008, was that of the over 35,000 ballots cast, 17,000—half of them—were not counted.

Who are the people who have been operating and have benefited by that law that Floridians? They have been people who have gotten married and their name has changed. They have been people in the mobile society in which we live who have moved and bought a new house or moved into a new apartment. In other words, all of us—we and our neighbors.

Who else might especially have been the reason for the legislature of Florida to change this four decades-old law? The last Presidential election, college students in Florida voted in record numbers because college students in Florida in the town of their college went down where they had their registration. Yet their identification showed their address as their parents’ home, not the registration address they had registered in their college town.

That is not making it easier to vote. That is not encouraging college students to vote. That is doing exactly the opposite. That is suppressing the vote. That is suppressing the vote.

I wish to quote a Republican supervisor of election, Deborah Clark, in Pinellas County, which is the county of St. Petersburg and Clearwater, FL. This is what she said: Not allowing address or name change changes on election day will create an undue burden on eligible voters.

She continues: It will also result in long lines at the polls and discourage many voters from voting.

It is self-evident, and this is an assault upon our democracy that should not be tolerated. But it happened and it happened in the last week of the legislative session. I hope—I hope—there will be such an outcry that this legislative policy gets reversed.

I yield the floor.

HONORING OUR ARMED FORCES

SPECIALIST JOSEPH CEMPER

Mr. JOHANNS. Mr. President, I rise today to remember a fallen hero, U.S. Army SPC Joseph Cemper. Specialist Cemper was based in eastern Afghanistan, in the area east of Kabul bordering Pakistan. This area is one of the areas where the fighting in the Afghan war has been the most intense.

Specialist Cemper was serving with the 101st Special Troops Battalion of the 101st Airborne Division, one of the Army’s most elite units. He and four fellow American soldiers were killed in a suicide attack that ultimately took 10 lives.

Specialist Cemper had a long desire to serve his country, and was rightfully proud of his commitment to defend and to protect.

He is mourned by his parents, three sisters, two brothers, a fiancee, and an infant son Liam. I know his family is proud of him, and will always remember his spirit, enthusiasm, competitiveness, and can-do attitude. They are the
type of American family that constitute the pillars of our Armed Forces, and are the reason our Nation remains safe from its enemies.

Joseph’s father, SFC Eugene Cemper, has made service to the Army his life’s work. As an Army recruiter, Sergeant Cemper gained the experience of personally recruiting his son into the Army.

As a father and a leader, Sergeant Cemper inspired both Specialist Cemper and his younger brother, PFC Noah Cemper, to wear the uniform of an American soldier with pride.

The Cemper family laid their son to rest in Pappilion, NE, on April 29, 2011. Specialist Cemper returned to his birthplace with valor and honor having been awarded both the Purple Heart and the Bronze Star Medals.

I know I speak for all Nebraskans, and all Americans, when I say that despite our sorrow, we are deeply honored to have him.

I cannot imagine the pain the Cemper family is suffering today. The loss unexpectedly of a son in combat is one of the most extreme trials a parent or loved one could face. I know, at this point, my words cannot ease their hurt.

So I will end this tribute by saying what Specialist Cemper held close to his heart, so close that his family has inscribed it in a scrapbook which will one day be seen by his son. It reads:

When I stand before God at the end of my life, I hope that I would not have a single bit of talent left, and I could say that I used everything you gave me.

I hope he rests knowing that he died the bravest and most honorable death an American could. May God bless the Cemper family, their father and son still serving in the Armed Forces, and all our fighting men and women in harm’s way.

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

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

The legislative clerk proceeded to call the roll.

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

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

Mr. SESSIONS. Mr. President, I ask unanimous consent that I be allowed to speak for up to 15 minutes.

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

SOUTHEASTERN TORNADOES

Mr. SESSIONS. Mr. President, I want to discuss today the tragedy that has occurred in Alabama and other States across the Southeast as a result of the tornadoes that hit our region in a 24-hour period between 6 a.m. in the morning on April 27 and 8 a.m. in the morning on April 28. The National Weather Service estimates there were a total of 312 tornadoes across the Southeast. The worst outbreak previously reported occurred in April of 1974, and that was with 148 tornadoes.

The Birmingham-Tuscaloosa F4 tornado had a path with a maximum width of 1.5 miles and a length, from the Tuscaloosa area of 80 miles. It stayed on the ground almost continuously—very unusual. It went through a number of populated areas, and that tornado alone resulted in 65 deaths. Alabama’s current death toll is nearing 250, with thousands injured, and nearly 1,000 people unaccounted for.

I talked to Mayor Gunnin in Huckleberry today. I believe he was the one who told me there were about 18 killed, and he was pleased it was that low. They were hammered with an F5, the highest, strongest tornado, which basically destroyed his whole town. All buildings north of the distribu-

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for temporary housing so it could be used to facilitate permanent housing. That would be a more effective policy, but it is not easy. In some instances, it cannot be done.

Initial reports indicate that Alabama’s losses may rival or surpass its $1 billion loss in Hurricane Katrina. That is a factor we do not normally expect from tornadoes. We will wrestle with those costs as we go forward. But dollar losses are nothing compared to the severe loss of life. We have a record-setting loss of life.

Going through the Rosedale Court area of Tuscaloosa, AL, seeing first responders and volunteers frantically trying to help—in particular, they were searching for a missing young girl. They kept on and there were a large number of people there throughout this area where metal was twisted and roofs were gone and no walls, hardly, were standing. Materials were 3 feet deep on the floor, of plywood, roofing and the like. They found that young child, but unfortunately it was too late and her life had been lost.

That is the kind of thing that has been happening throughout the State. Our people are responding with courage and dignity and hard work. Volunteers from all over the country and all over Alabama are assisting. I was with a seafood group Friday, down from Bayou La Batre, AL, the seafood capital, in many ways, of the Gulf of Mexico, and they had been helped so many times over the decades because of various hurricanes that came through, they wanted to help so they brought large amounts of shrimp and seafood and their cookers. They were going to Tuscaloosa or some of the other areas and serving people out there who were volunteering or were emergency responders working to help that neighborhood. That is the kind of thing that makes us proud and makes us all recognize the good that we have in our people.

I wished to share these thoughts and to note that I have filed a resolution that deals with this disaster, expressing the condolences of the United States and noting many of the factors that are relevant to this damage and I will be asking the Senate to agree to that. I note it has been cosponsored by Senator Shelby, my colleague from Alabama, Senators Alexander and Corker from Tennessee, Senators Cochran and Wicker from Mississippi, Senators Chambliss and Isakson from Georgia, and I understand others are signing on as we proceed.

I thank the administration for helping to respond properly. I thank the volunteers from all over America who have come to our State to assist those in need.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. SESSIONS. Mr. President, I ask unanimous consent that I be able to speak as in morning business for up to 15 minutes.

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

COLE NOMINATION

Mr. SESSIONS. Mr. President, I want to speak in opposition to the nomination of James Cole to be Deputy Attorney General of the United States, on whom we will be voting a little later this afternoon.

Despite President Obama’s recess appointment of Mr. Cole, who has had significant opposition in the Senate, and was not looking at smooth sailing—I do believe we should oppose his confirmation and his permanent appointment based on some concerns I have with his record, specifically his criminal justice view on the war on terror, which I believe is utterly wrong, and his questionable decisions as an outside consultant for AIG, the big insurance company that had to be bailed out to the tune of, I think, $170 billion.

He was an independent consultant, supposed to be monitoring that company for other errors they had made previously. So that is a concern to me.

I served 15 years in the Department of Justice—as the U.S. attorney for almost 12, and as an assistant U.S. attorney. I respect the Department. I love the Department of Justice, but I am getting concerned about it. I am not happy with some of the decisions and philosophies that are emanating from that Department. I believe they do not reflect the highest standards and qualities that we expect from that great Department.

This nominee has a lot of good qualities. I believe he has a number of strengths that—he has management and some experience in the Department for which I would give him credit. But at this point in history, I believe his approach, particularly to the war on terror, along with the Attorney General’s approach to the war on terror are not good. I have just seen had enough of them.

I am just going to say this: I am not voting for another nominee—I am not going to vote for this one—who spent their time defending terrorists before they went to the Department. It is all right to defend an unpopular person, but 13 to 16 members of the Department of Justice, political appointees by this administration, have had as their background defending terrorists, including the Solicitor General nominee who is going to be coming up in committee this week, and also working for or representing the ACLU.

So when we get this much of a tilt in the leadership of the Department, it gives me great concern that the great Department I love and respect is getting off base. So I think it is important to note that right now one of the top priorities at the Department of Justice must be that the terrorist groups—‘almost certainly’ will try to avenge the death of Osama bin Laden, and the continuing economic crisis that faces our country.

So I believe the President should be nominating proven prosecutors—prosecutors of terrorists, frankly—for top positions in the law enforcement agency, the U.S. Department of Justice. I do not think we need any more terrorist defense attorneys. When I was the U.S. attorney I hired a lot of assistant U.S. attorneys. I looked for proven prosecutors wherever I could find them. I did not go around to look for people who spent their spare time volunteering to defend terrorists. That is the kind of thing that has been happening throughout the State.

We have had this one, we have had that one, we have had another one, and another one. And another one. Now we have 13 to 16 who have been appointed to the Department of Justice who have had this background.

Defending the unpopular is not disqualifying. We voted, and I voted, for a number of people in this last Department who have been involved in these kinds of defense efforts, who filed lawsuits against President Bush. They thought they were doing something great. I guess they did not turn down the evidence if it helped in any way lead to the location of Osama bin Laden.

We do have standards about how we should gather evidence, and lines should not be crossed. But that does not mean we are not in a war. It does not mean the people who are attacking us are common criminals who need to be tried in civil courts. They are at war with us. Bin Laden said he is at war with us. He declared war on us. You do not treat prisoners of war, captured enemy combatants, like you treat common criminals. This is fundamental.

I served in the Army Reserve a number of years, some of that time as a JAG officer. I taught courses on prisoners of war and hostages and the standards of the field manual. I do not claim to be a great expert at it, but I did it. I had some experience in it.

Mr. Cole consistently—and some of those nominees to the Department—takes the view that terrorists are criminals and not unlawful combatants. Let me just say briefly, if a person is caught—a murderer, a rapist, or virtually any kind of criminal—when they are taken into custody, as the Presiding Office knows, who were a good prosecutor himself, they have to be—before you can interview them, once they are in custody you have to
give them Miranda warnings. That authorizes and tells them—basically tells them: You did not have to make any statements at all. It basically says: If you are an idiot, you will make statements. You are entitled to a lawyer. If you do not have any money, we will give you one. You have to go before a magistrate within a matter of hours. You are entitled to discovery of the government’s case in short order, and you are entitled to a speedy trial. You are entitled to prowl around in the government’s case and find all of the evidence the government has.

In war, that is not so. A classic case was Ex parte Quirin in World War II when German saboteurs were dropped off on our coast from a submarine. They were going to sabotage the United States of America. They were apprehended, taken to military tribunals, tried, and most of them were executed in a matter of months. The case went to the Supreme Court. Ex parte Quirin was decided in 1942.

There has never been any doubt that unlawful combatants can be tried for their crimes in military courts. It is done all over the world. It is an established principle.

Now, a number one thing straight. If you are a lawful combatant, and you are captured on the battlefield—whether you are a Japanese soldier or German soldier or Italian soldier—and you comply with the laws of war and you wear your uniform and you do not attack deliberately men, women, and children, civilians, and try to kill them, and you comply with other rules of war, you cannot be tried. You can just be detained until the war is over, but you do not get lawyers. You do not get trials and discovery and all of that sort of thing. But if in conducting your military campaign you violate the internally respected laws of war, you cannot only be held as a prisoner of war, but you will lose the nation that is holding you and you are entitled to discovery and inspection, and all of that.

So that is how these 9/11 attackers who did not wear uniforms, who attacked deliberately civilians, are perfectly fit to be tried as war criminals. They have announced their intention to destroy the United States, to attack the United States. They have said they are at war with us. But they have done it in an unlawful manner and they can be tried by military commissions. This allows the military to conduct interrogations according to the laws of war over a period of months, years even. Sometimes after months a prisoner will start to talk. You never know why they start talking.

But to deny ourselves the right to allow those kinds of things to happen, to say we have to try these individuals, such as Khalid Sheikh Mohammed, in civilian courts, is clearly in error. But that is the Attorney General’s position. I asked him about it last week when he testified before the Judiciary Committee. He said: It still remains the policy of the Department of Justice that persons who are arrested as terrorists are presumed to be tried in civil court, although Congress has passed a law prohibiting moneys to be expended for that, on the 9/11 attackers. Attorney General Ashcroft knew that Khalid Sheikh Mohammed will be tried in Guantanamo under military procedures as an unlawful combatant, but he does not like it. That is not his view. It looks like everybody he wants to hire to be in the Attorney General’s office is in a huff and said Khalid Sheikh Mohammed will be tried in Guantanamo under military procedures as an unlawful combatant, but he does not like it. The Attorney General for it.

It is not a close question. This is not a close question. There is no reason a terrorism trial, what is involved in the United States ought to be provided lawyers and Miranda warnings. They are combatants. They are not common criminals. Thinking this way has caused dangerous confusion. As our troops and intelligence community continue to work night and day to keep our country safe, it is imperative that we view the war on terror as a real war and not a criminal matter and regard those who wish to terrorize this country as enemy combatants, not plain criminals. Like many in the administration, Mr. Cole disagrees.

In 2002, not long after the 9/11 attacks, he wrote an op-ed and published it criticizing then-Attorney General John Ashcroft’s decision to try the 9/11 terrorists in military commissions. They researched the law. Attorney General Ashcroft was doing what he was doing. They decided they were going to try these individuals by military commissions. He had written an op-ed attacking the Attorney General for it.

So now that is the man we have as the nominee for the Deputy Attorney General of the United States. At his hearing last Congress, Mr. Cole repeated the prevailing and confusing Justice Department position that decisions regarding who combatants should be tried in civilian courts or before military commissions “should be made on a case-by-case basis on all of the relevant facts and circumstances available at the time of a suspect’s capture.” Is this going to happen in Yemen, Afghanistan, Pakistan, wherever else they may be in the United States is not a practical policy because we have to tell the individuals who are making those captures what the rules are. Attorney General Ashcroft said, he will adhere to the view that the presumption is, the individual will be tried in civilian court. Therefore, the presumption is, within a short time of their being taken into custody, they should be given the Miranda warnings, offered a lawyer, and set for a preliminary court appearance, which could reveal to all the other terrorists that their partner in war has been captured and allow them to escape.

It is a wrong view, and why they persist in this is beyond my understanding. Congress understands it and the American people do also.

This administration has established a policy that declares there is a presumption of civilian trials and has failed to articulate a clear policy for designating captured terrorists as enemy combatants or criminal defendants. So that next captured terror suspect will not be given the rights of a common criminal and told he has the right to remain silent to the detriment of crucial intelligence gathering. One of the most significant findings of the Commission was that intelligence gathering, intelligence possession about what the enemy is doing is the best way to protect our country, not prosecuting them after the fact. So telling someone they have the right to remain silent and they have a lawyer who is going to insist that they not make any statements, does that help us gather intelligence? If it is required by the U.S. Constitution, we will do it. We will just plain do it, regardless, but it is not required by the law, history, or Constitution. Law, history, and the Constitution allow these enemy combatants to be tried in military commissions and they don’t have to be given Miranda warnings, which was a court-created number of years ago. This law was never was understood before and is not practiced, to my knowledge, in any other Nation in the whole world. Of course, all this provides poor guidance for our law enforcement, military, and intelligence officers as they gather their efforts, and it is a grievous and dangerous mistake to continue this policy.

It seems to me that Mr. Cole and Attorney General Holder are cut from the same cloth on this issue. I am uneasy about these two individuals holding the top two positions in the Department of Justice. Now the Solicitor General nominee seems to hold similar views and, if confirmed, he will be one of the highest ranking people in the Department. They are the ones who will control the Department of Defense. In other words, if they say this is the rule, the Department of Defense has to give the Miranda warnings and so forth if they are involved in a capture, and it directly controls the FBI, which is part of the Department of Justice.

As the acting second in command at the Justice Department, Mr. Cole would play a lead role in decision-making in the terror prosecutions and the conduct of the war in Afghanistan. The Department’s continued insistence on a presumption of civilian trials for terrorists confirms my concerns that Mr. Cole has adhered to the failed pre-9/11 law enforcement approach to terrorists, an approach the 9/11 Commission and the Nation as a whole recognized was in error and should be changed. I thought we had clearly made that move. Apparently, we haven’t.

Also of concern, from 2003 to 2007, Mr. Cole represented Saudi Prince against insurance carriers and September 11 victims who alleged that the Saudi Prince helped finance terrorists. Reportedly, Mr. Cole’s client was
Mr. SESSIONS. I ask unanimous consent to speak for 1 additional minute.

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

Mr. SESSIONS. Mr. President, the Department of Justice is the Government's law enforcement representative to the courts, and they have some very fine people there. I know Mr. Cole has some good qualities. I supported Mr. Holder for Attorney General, but I am very uneasy about the direction the Department is taking on a large number of the matters of the day. One of the reasons this is happening is because they have surrounded themselves with a group of leftist lawyers, activist lawyers who don't operate according to the traditional views of law and justice in America. That is my view. Other Senators may disagree. That is my view.

I am not able to support Mr. Cole for that and the reasons I have stated. I hope in the future the administration will appoint more nominees that will put policy ahead of politics, effective prosecution, and commitment to law.

I thank the Chair and yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Maryland.

Mr. CARDIN. Mr. President, I greatly respect my friend from Alabama, Senator Sessions, although I come to a different conclusion in regard to Jim Cole.

I have worked with Jim Cole. I was part of a legislative committee in the House of Representatives that had to do some very difficult work on an ethics issue involving a former Speaker of the House of Representatives. It was a tough decision to bring together six Members of the House—three Democrats, three Republicans—and do it in a way that would maintain the nonpartisan requirements of an ethics investigation. The atmosphere was very partisan. People in Maryland and Connecticut and around the Nation understand we are working in a very partisan environment, and they expect the people who are charged at the Department of Justice to work in a nonpartisan manner.

This is not a partisan position, the Deputy Attorney General. This is a person who is working with the Attorney General, the Nation's lawyer. We want someone who understands both sides of the aisle; that is, Fred Fielding, the White House counsel for former President George W. Bush. He said Mr. Cole "combines all the qualities you want in a 'citizen public servant'—he understands both sides of the street and is smart and tenacious, and is a person of unquestioned honor and integrity."

That is what Fred Fielding, the former White House counsel to President Bush, said about Jim Cole.

Jim Cole has support from former RNC officials and DNC officials because he is nonpartisan. He is a nonpartisan person who has put public interest law as his top priority.

I was listening to Senator Sessions talk about terrorism. We have had a spirited political debate taking place in this country over the best way to bring terrorists to justice. Mr. Cole, however, will always put principle over politics, and he is committed to evaluating each case and matter that comes before him based on the facts and the law. That is what you want from the Department of Justice. They are the values and the character we want in the Department of Justice, and Jim Cole will bring that to the Department of Justice—already brought it to the Department of Justice.

The bottom line about Mr. Cole's approach on fighting terrorists is one I believe we all believe in. We are a nation at war with al-Qaida, the Taliban, and their associated forces. We need tough, aggressive, and flexible policies that recognize the paramount importance of providing the President with the ability to use all of the lawful tools at his command in support of our national power to protect the American people and bring terrorists to justice.
Jim Cole believes in that. He is committed to working with the Congress so we use all available tools. We make the judgment in each individual case as to what is the most effective way to bring a terrorist or criminal to justice. He not only has expertise in handling terrorism, but knows that if we move to make these types of appointments, he has had very important positions in the Department of Justice supervising the criminal prosecution of white-collar crimes. He understands the full breadth of the Department of Justice and believes that we need to make sure the Department of Justice follows in the fine tradition of that agency.

I urge my colleagues to vote to move forward. At least vote to allow this nomination to get an up-or-down vote. This is a very important position; the Deputy Attorney General. We talk about we were sent here to Washington to make tough votes. OK, I do not think this is a tough vote. I think Jim Cole is the best person for this critically important job, and I do not think he is at all a partisan person. I know him well. I know him to be a career type individual who is interested in doing what is right. But this is not a nominee where you should be using a filibuster to prevent an up-or-down vote.

This is a very important position for our country. For the dignity of the Senate and the Department of Justice and the decency of Jim Cole, I urge my colleagues to allow me to go forward with an up-or-down vote on his confirmation, and I urge my colleagues to support his confirmation to be Deputy Attorney General of the United States.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. GRASSLEY. Mr. President, I know we are in morning business. I ask unanimous consent to speak on the nomination of James Cole to be Deputy Attorney General.

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

Mr. GRASSLEY. Mr. President, I rise in opposition to the motion to invoke cloture on the nomination of James Cole to be the Deputy Attorney General at the Department of Justice. I oppose proceeding to a vote on the nominee for a number of reasons.

I have concerns regarding Mr. Cole’s qualifications and am troubled by President Obama’s recess appointment of Mr. Cole to this position. I have been consistent in my opposition to recess appointments over the years. Whenever the President bypasses the Senate by making recess appointments, such nominees will not receive my support. We have a process in place for nominations and if the President is not willing to work with Senators to clear nominations, the nominee should not get a second bite at the apple.

In addition to my general opposition to recess appointments, I have consistently warned this administration that I would not cooperate in moving nominees for the Department of Justice, until they cooperated with my request for oversight materials. Last month, I went to the floor to describe what I have learned in the course of my investigation into whistleblower allegations at the ATF, including the ATF’s use of illegal arms to entrap border buyers, and this week, the ATF’s firing squad operation known as Fast and Furious. According to whistleblowers, guns found at the scene of the murder of Border Patrol Agent Brian Terry had been purchased illegally by a known straw buyer a year earlier, with the blessing of the ATF as part of an operation known as Fast and Furious.

I first asked about this issue on January 27. On February 16, I requested specific documents from the Justice Department. I reiterated that request on March 3. When the Justice Department failed to produce any responsive documents, I partnered with House Oversight and Government Reform Chairman Darrell Issa, who first requested documents and then issued a subpoena to the ATF after his voluntary request was ignored. On April 13, my staff learned that the Justice Department was making certain documents available for Chairman Issa’s staff to review. But the Department did not notify me of this document review, when I sent two of my staff members to participate, they were turned away at the door of the Department.

To this day, the Justice Department has still not produced a single page of documents in response to my inquiries and has provided only previously released public documents in response to Chairman Issa. I received a letter on May 21 from the Department that only provides leadership for the Department. Managing this vast bureaucracy is a difficult task that requires a serious commitment to protecting our national security, enforcing our criminal laws, and safeguarding taxpayer dollars. We need a qualified individual to fill this slot, an individual who possesses the ability to not only provide leadership for the Department but also an individual who has the smarts, capability and willingness to manage Department programs and root out inefficiencies and abuses in those programs. After reviewing all his responses and his hearing testimony, I concluded that I could not support Mr. Cole’s nomination to be the Deputy Attorney General.

In particular, I am seriously concerned about Mr. Cole’s views on national security and terrorism. Back in 2002, Mr. Cole was the author of an opinion piece in the Legal Times. In that piece, he stated:

"For all the rhetoric about war, the Sept. 11 attacks were criminal acts of terrorism against a civilian population, much like the terrorist acts of Timothy McVeigh in blowing up the Federal Building in Oklahoma City, or of Omar Abdel-Rahman in the first effort to blow up the World Trade Center.

The criminals responsible for these horrible acts were successfully tried and convicted under our criminal justice system, without the need for special procedures that altered traditional due process rights.

He added that, "The acts of Sept. 11 were terrible, but so were other things." The other things he referred to were the drug trade, organized crime, rape, child abuse and murder.

Mr. Cole’s opinion piece argued that the need for special procedures that altered traditional due process rights. The Department of Justice supervising the Department of Justice.

I urge my colleagues to vote to move forward. At least vote to allow this nomination to get an up-or-down vote. This is a very important position: the Deputy Attorney General of the United States. This is a very important position for our country. For the dignity of the Senate and the Department of Justice and the decency of Jim Cole, I urge my colleagues to allow me to go forward with an up-or-down vote on his confirmation, and I urge my colleagues to support his confirmation to be Deputy Attorney General of the United States.

Mr. President, I yield the floor and suggest the absence of a quorum.
notwithstanding the involvement of foreign organizations, such as al-Qaida, we have never treated criminal acts influenced by foreign nationals or governments as a basis for “ignoring the core constitutional protections engrafted in our criminal justice system.”

Mr. Cole concludes his opinion piece by arguing that in addition to stopping future terrorist attacks, the Attorney General is a criminal prosecutor and that this special duty to apply constitutional protections engrafted in our criminal justice system to everyone, including terrorists captured on a foreign battlefield.

Mr. Cole wrote this opinion piece 2 days short of the first anniversary of the September 11 attacks. Given the close proximity in time to the September 11 attacks, we must understand this opinion piece to be Mr. Cole’s true beliefs and better equipment to deal with civil and military criminal justice systems to terrorism cases, including those who masterminded the 9/11 attacks.

From the opinion piece and his responses to our inquiries, it appears that Mr. Cole has a special duty to apply constitutional protections engrafted in our criminal justice system to terrorism cases, including those who masterminded the 9/11 attacks.

Military tribunals have many advantages to civilian courts and are better equipped to deal with dangerous terrorists and classified evidence while preserving due process.

I am troubled that Mr. Cole does not appear to share this belief. Based upon his responses and testimony, I have serious concerns about Mr. Cole’s support for civilian trials for terrorists captured on a foreign battlefield given that the Deputy Attorney General oversees the national security branch at the Justice Department.

Second, I have serious concerns about Mr. Cole’s abilities relative to oversight of government programs. First, in his responses about oversight of DOJ grant programs, Mr. Cole failed to commit to a top to bottom review of the programs.

We have had enough examples of the tremendous inefficiencies, duplications, and waste in these programs. I am disappointed that Mr. Cole has failed to recognize that there is a need for comprehensive review of the Department of Justice’s grant program, not only for the sake of saving taxpayer dollars but also to ensure that grant objectives are being met in the most efficient and effective manner possible.

Third, I do not have confidence regarding Mr. Cole’s abilities based on his performance as an independent consultant tasked with overseeing AIG. By way of background, the Justice Department provided copies of the reports Mr. Cole issued when he was overseeing AIG, but they were labeled “committee confidential.” Consequently, I cannot discuss in a specific context the context of those documents publicly.

Nevertheless, when taken into context with the public responses provided by Mr. Cole to my questions, a troubling picture develops about Mr. Cole’s performance in his independent consultant responsibilities. The responses and reports do not dispel the serious questions raised about Mr. Cole’s independence and completeness. Further, they reveal what appears to be a level of deference to AIG management one would not expect to see from someone tasked as an “independent” monitor.

In order to clarify a number of questions on this matter, Senator Coburn and I sent a request for additional answers from Mr. Cole. Mr. Cole’s reply clarified that DOJ, SEC, and the New York State Attorney General’s office were aware of his practice of seeking input from AIG and making modifications to the reports. He indicated that the changes AIG made were often factual changes, such as AIG employee names, dates of materials, and events. He also indicated that some of the changes requested by AIG were included in a section of the report entitled “AIG Response.” However, he stated that “on a few occasions” AIG would “suggest a stylistic change of phrasing in the analytical section of the report.” He stated that while he included the edits made by AIG, he “did not believe that a detailed presentation of this factual review was necessary to an understanding of each party’s position.” As a result, the report did not necessarily show which edits AIG made that were incorporated. Instead, he said that these were included in working papers that were “available to the SEC, the DOJ, the New York Attorney General’s Office.” Unfortunately, he added, “the agencies—which were aware of this practice—did not request such documents.”

While I appreciate Mr. Cole’s responses to these clarifying questions, they raise concerns about how independent his monitoring was, what changes were ultimately requested by AIG, what changes were included, and how much the SEC and the DOJ really knew about edits AIG was making to the “independent” reports.

Finally, I have serious concerns about Mr. Cole’s decision to suspend the compliance review at AIG’s Financial Products Division following the government bailout. In his testimony, Mr. Cole acknowledged that following the government bailout of AIG, he scaled back his efforts until the future of AIG as a corporation was determined. After Mr. Cole suspended his monitoring, AIG restructured its compliance office and terminated a number of staff overseeing the company’s compliance with the Securities and Exchange Commission regulations. Mr. Cole said that after it was determined that AIG’s Financial Products Division would not be dissolved, the compliance and monitoring were “revived and are being reviewed and implemented where applicable.” Under Mr. Cole’s watch, AIG not only got $182 billion of taxpayer money, it was able to talk the independent consultant—Mr. Cole—out of monitoring what the company was doing.

Based upon these factors, I am concerned about Mr. Cole’s ability to perform the duties required of Deputy Attorney General. He would be in a position to potentially influence future compliance monitors appointed under settlements between the Justice Department, the Securities and Exchange Commission, and other corporations that have violated the law. Independent monitors need to be truly independent and completely transparent. They are selected and appointed to ensure that the interests of the American people are protected.

I cannot support the nomination of Mr. Cole to be Deputy Attorney General and, therefore, will vote against cloture. I urge all of my colleagues to join me in opposing this cloture vote to send a message to the Justice Department to stop the stonewalling of legitimate oversight inquiries from Members of the Senate.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EXECUTIVE SESSION

NOMINATION OF JAMES MICHAEL COLE TO BE DEPUTY ATTORNEY GENERAL

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The bill clerk read the nomination of James Michael Cole, of the District of Columbia, to be Deputy Attorney General.

The PRESIDING OFFICER. Under the previous order, there will be 1 hour of debate equally divided and controlled between the two leaders or their designees.

Mr. GRASSLEY. Mr. President, I yield 10 minutes to the Senator from North Carolina.

Mr. BURR. Mr. President, I thank the Senator. In less than an hour, this body will be asked to vote on cloture to proceed to the nomination of James Michael Cole to be Deputy Attorney General. In my last vote in opposition to that cloture vote on the nomination of James Cole, and I urge my colleagues to strongly oppose it.
As a member of the Senate Intelligence Committee, I share the views of the vice chairman, Senator Chambliss, and the ranking member of the Judiciary Committee, Senator Grassley, as expressed in their letter to Republican colleagues dated May 6, 2011, opposing cloture on Mr. Cole’s nomination.

I ask unanimous consent to have printed in the RECORD this letter from Republican colleagues.

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

U.S. SENATE
Washington, DC, May 6, 2011.

Dear Colleague: The Majority Leader has filed cloture on James Cole, the President’s nominee to be the Deputy Attorney General. At this time, we do not support Mr. Cole’s appointment and urge you to oppose cloture on his nomination.

During the last Congress, Mr. Cole’s nomination was not considered by the full Senate for several reasons. First, the Department of Justice complied with all of our minority requests since August 2010 for documents and information related to the activities of the Guantanamo Bay Detainee Review Task Force to detain, transfer, or release detainees from the Guantanamo Bay facility. Given these requests and the Attorney General’s clear concern that the recidivism rate among these detainees has now risen above 25 percent, Congress must have clear insight into this process to determine whether additional legislation is needed to protect our national security.

The Attorney General has been asked repeatedly to provide Congress with: (1) any guidance or recommendations related to the Task Force process (including a September 2009 Attorney General memorandum concerning a presumption to be applied in favor of transfer for certain detainees); (2) the Task Force’s unredacted recent recommendations regarding each detainee; and (3) a list of the 92 detainees who were approved for transfer as of August 28, 2009, prior to the issuance of the September 2009 memo. In spite of these specific written requests from Senators in the minority, including this nominal, the minority members of the Select Committee on Intelligence, the Justice Department has not provided the information, instead asserting a questionable “privileged process” privilege to justify its lack of compliance.

Aside from this dubious assertion of privilege, the repeated failure of the Justice Department to comply with this overwhelming request is part of a disturbing pattern of refusing to recognize legitimate oversight requests from ranking minority members. For example, the Justice Department is currently refusing to turn over documents requested by the Ranking Member of the Senate Judiciary Committee regarding serious allegations that the Bureau of Alcohol, Tobacco, Firearms, and Explosives knowingly allowed straw purchasers to buy firearms that were then provided to criminal drug cartels in Mexico. At least two of these weapons were later found at the scene where Border Patrol agent Brian Terry was murdered.

Mr. Cole’s views on terrorism

A September 2002 opinion piece by Mr. Cole raises serious questions about his judgment and his current views on terrorism. In that article, he noted that “the rhetoric about war, the September 11th attacks were criminal acts of terrorism against a civilian population” and were no more horrible than “organized crime, and countless acts of rape, child abuse, and murder.” He also argued that “the protections of our criminal justice system ‘must be applied to everyone to be effective.’”

While the United States must use every means at our disposal—criminal, intelligence, and military—to combat terrorism, not every terrorist deserves the valued protections of our criminal justice system. Although Mr. Cole has downplayed his comments at the time, the September 2009 memorandum and any other recent documents and information from the September memorandum should be ratified by the Senate in order to ratify the September memorandum and any other recent documents and information from the September memorandum.

Mr. Cole’s performance in overseeing AIG

We have a number of concerns about Mr. Cole’s abilities based on his performance as an Independent Consultant tasked with overseeing AIG. As a result, the Senate returned the nomination to the President. Unfortunately, on December 29, 2010, Mr. Cole was recess appointed to a one-year term to continue serving in the same capacity. Given that the recidivism rate among AIG’s former Gitmo detainees has now risen above 25 percent, Congress must have clear insight into this process to determine whether additional legislation is needed to protect our national security.

The Department of Justice issued a September memorandum in which the Attorney General reportedly recommended that certain detainees be transferred favorably, possibly in spite of the intelligence, the Senate Intelligence Committee with documents and information related to the September memorandum are obtained. In this effort to close the detention facility at Gitmo, the President ordered a task force run by the Attorney General to review the status of those detainees still housed at Gitmo. Through much of 2009, the Gitmo detainee review task force examined every detainee’s case and made recommendations to the administration on whether to transfer, release, or detain each one.

At a time when Congress is aware that former Gitmo detainees are returning to their old ways, we have an obligation to the American people—an obligation to the American people—to make sure no more detainees are released who could cause us harm. Even though Gitmo remains open right now, efforts to transfer or release many of these detainees continue today. The task force run by the Attorney General is seeking all relevant information about each detainee.

We know that the Attorney General provided recommendations on how the task force should make its transfer decisions. In addition, the intelligence community has recommended that an entire category of detainees be presumed to be eligible for transfer—presumed eligible for transfer. While we have asked for this memorandum and any other recommendations repeatedly, the Department of Justice has refused to provide them. If the Department of Justice maintains that the United States recommended that certain detainees be treated favorably, possibly in spite of the intelligence, the Senate Intelligence Committee has a clear oversight interest in reviewing the September memorandum and seeing if and to whom it was applied.

In addition to refusing to provide the September memorandum, the Justice Department has also denied the Intelligence Committee the recommendations made by the task force. The Department cannot determine why the task force made its recommendations without seeing the description of how the task force came to the positions it did. The Department claims that both the September 2009 memorandum and the unredacted recommendations were protected from disclosure to Congress because of deliberative process. This is an assertion ordinarily used in a FOIA case, not in the context of Executive privilege. We did not seek oversight of a Federal agency. An interesting inconsistency in this assertion is that the administration has...
willingly provided the Intelligence Committee with the recommendations of the past administration.

I understand that in the last few days, the Attorney General has reached out to the vice chairman of the Intelligence Committee in an effort to resolve the impasse before today’s vote. Given the Department’s months of delays and obstruction in complying with this request, I believe cloture on this nomination is not appropriate until the documents requested have been provided in full.

In addition to the document issue, Mr. Cole has not explained some highly charged comments he made about 9/11. An op-ed he authored back in September 2002 called the 9/11 attacks “criminal acts of terrorism against a civilian population.” He went on to dismiss the severity of 9/11, calling it no more horrible than “the scourge of the drug trade, the reign of organized crime, and countless acts of rape, child abuse, and domestic violence.”

Mr. Cole has not rejected or fully explained those comments. Until he does so and until the Department ends its refusal to comply with reasonable congressional requests for information, I cannot move to reject his nomination. I urge my colleagues to reject cloture today.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. LEAHY. Mr. President, I assume we are on the nomination of Jim Cole.

The PRESIDING OFFICER. The Senator is correct.

Mr. LEAHY. Mr. President, to make a point, a parliamentary inquiry: Am I correct that time runs to 5:30?

The PRESIDING OFFICER. The Senator is correct.

Mr. LEAHY. Time has been consumed by this quorum call, and so I ask unanimous consent that any time consumed in further quorum calls be equally divided on both sides.

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

Mr. LEAHY. Mr. President, the majority leader has been required to file cloture in this extraordinary case in an attempt to overcome a Republican filibuster on the nomination of Jim Cole to be Deputy Attorney General. This is a key national security position and the No. 2 position at the Department of Justice. Certainly, with what has happened in the past week or so, it is important for this President or any President to have a full national security team.

I thought back, and I could not remember a time in my 37 years here where the Senate has filibustered a President’s nomination to be Deputy Attorney General. I asked Senate Judiciary Committee staff to check that and they found that the Senate has never filibustered a President’s nomination to be Deputy Attorney General. In fact, during the time I was chairman of the committee, we quickly moved on President Bush’s Deputy Attorneys General. I don’t think it could not have been my choice. We knew it was a national security position and it is important at a time when we face the threats we do here and abroad that we have that position filled. In fact, I thought it was unreasonable.

I am convinced that whether it was President Bush, President Reagan or any other President, to stall a Deputy Attorney General. Mr. Cole’s nomination to fill this critical national security position was blocked last year, when it was pending on the Senate’s Executive Calendar for 155 days after it was reported favorably by the Judiciary Committee. The nomination was reported favorably by the Judiciary Committee again in March, and it was again filibustered. People have asked me how this could be happening. It is hard to believe that one week after the successful operation that killed Osama bin Laden, the world’s number one terrorist, we cannot take this step to ensure that President Obama has his full national security team in place. It is similar to “Alice in Wonderland.”

Now that a measure of justice has been secured for the victims of September 11, I hope we could come together, as we did in the weeks and months following September 11. We should be ensuring that we are extra vigilant these days. There are widespread reports that experts are concerned about this being a time in which al-Qaeda will seek reprisals. Most Americans believe we should be concerned about them trying to strike back. This is not a time for further delay or obstruction. Let us join together and confirm this qualified nominee. We owe it to the rest of the world that no matter what our political labels might be, we believe in the President of the United States having his national security team in place.

This weekend, the Washington Post editorial board called this delay “ridiculous,” referring to the Deputy Attorney General as “essentially the chief operating officer of the Department of Justice, including its national security operations.” This delay is ridiculous and dangerous. It is again single American. I hope other Senators will see it as such and help end it.

We have the opportunity to set aside partisanship and join with our President to keep America safe. I recall in the aftermath of 9/11 we took immediate steps—Republicans and Democrats together—to do what we could to make sure the President’s entire law enforcement team was in place.

We expedited the nominations of 14 U.S. attorneys that had been received in the Senate only 1 week before, reporting them from the Judiciary Committee on September 13 and confirming them by voice vote the very next day. Those nominations included the nomination of Paul McNulty to the Eastern District of Virginia, one of the key districts where terrorism defendants like Zacarias Moussaoui, one of the conspirators in the 9/11 attacks, are tried.

Republicans together to do what we could to make sure the President’s entire law enforcement team was in place.

When we first reported Jim Cole’s nomination last July, I said that I hoped the Senate would treat his nomination to this critical national security and law enforcement position with the same urgency and seriousness with which we treated all four of the Deputy
Attorneys General who served under President Bush. All four were confirmed by the Senate by voice vote an average of 21 days after they were reported by the Senate. In fact, we confirmed President Bush’s first three Deputy Attorney General nominations the day it was reported by the committee. That is not the treatment that Deputy Attorney General Cole has received.

The Senate’s treatment of the Cole nomination represents a sharp break from the Senate’s longstanding practice of deference to the administration and timely consideration of critical national and law enforcement nominations. In their letter last December, the 8 former Deputy Attorneys General noted that, of the 11 nominations to fill this position over the last 20 years from Democratic and Republican Presidents, “none remained pending for longer than 32 days.” I remember some of President Bush’s nominations to this position remained pending even less than that.

Jim Cole’s nomination has been pending on the floor for 222 days combined, nearly seven times longer than any nominee in the last 20 years. In fact, this 379 days, 15 of the 16 Deputy Attorney General nominations pending on the Executive Calendar were confirmed unanimously, the only exception being President Obama’s first Deputy Attorney General nomination, of David Ogden, which was confirmed 65–28 after cloture was filed and a time agreement was reached. At the time of these events, I remember that it took a minimum of 32 days to confirm an Attorney General, and that proved to be true.

Mr. LEAHY. Among these is a letter from Michael Toner, former Chief Counsel of the Republican National Committee and former General Counsel to the Bush-Cheney 2000 Campaign, who wrote “[i]n light of his extensive experience, legal acumen, professionalism and integrity, I can think of no better person than Mr. Cole to serve as Deputy Attorney General.”

Chuck Rosenberg, former Chief of Staff for Deputy Attorney General James Comey, who served under President George W. Bush, wrote, “I know how important it is for this crucial position to be filled by the right person. Jim is the right person. He is smart, experienced, thoughtful and has the proper skills and temperament to help Attorney General Eric Holder lead the Justice Department.

In his letter recommending Mr. Cole, Michael J. Madigan, a Republican counsel on many high-level Senate investigations, described Mr. Cole as “one of those somewhat rare individuals in this city about whom you will never hear even the mildest of criticism.” He concluded that Mr. Cole “is a good man and perfectly suited for the challenging position for which the President has wisely nominated him.”

Another critic trying to try to blame him for the actions of AIG. His limited role was as an outside monitor of other corporate functions and there is no evidence showing he did not perform his assignment well. Let us hold those responsible at AIG accountable. Not just a single person so trying to make Mr. Cole the scapegoat for the actions of AIG. Blame the AIG agents and employees, blame its officers, blame its board, or even criticize the lack of oversight by state and Federal regulators and law enforcement officials if you like. But scapegoating this good man is wrong. As The Washington Post observed in an editorial last year when Mr. Cole’s nomination was being filibustered on the Senate floor. “There is no suggestion that Mr. Cole suffers from the kind of ethical or legal problems that would disqualify a nominee.”

There is no justification for the failure to act on this critical national security nomination, and for failing to make sure that the administration has its full national security team in place. During the time when I was chairman we moved very quickly on President Bush’s nominees for Deputy Attorney General because it is so important for every President to succeed, no matter their party.

I hope that the Senate will reject this destructive and unprecedented filibuster so that we can finally consider and confirm Jim Cole after many months of unnecessary delays. As I said, I could not remember a time in my 37 years here where we had filibustered a nominee to be Deputy Attorney General and that proved to be true.

EXHIBIT 1

Hon. PATRICK J. LEAHY,
U.S. Senate,Russell Senate Office Building, Washington, DC.

Hon. JEFF SESSIONS,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DeAR SENATOR LEAHY AND SENATOR SES-

Hon. JEFF SESSIONS,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DeAR SENATOR LEAHY AND SENATOR SES-

By way of background, I am a Partner at Bryan Cave LLP in Washington, DC. Prior to joining Bryan Cave, I was Chairman of the Federal Election Commission, which was a Commissioner on the FEC from 2002–2007. Prior to being appointed to the FEC, I served as Chief Counsel of the Republican National Committee and General Counsel of the 2000 Bush-Cheney Transition Team.

I have known Jim Cole for approximately 15 years and have had the pleasure of working with a colleague of Mr. Cole’s at Bryan Cave for the last three years. I first met Mr. Cole when he served as Special Counsel for the House Ethics Committee’s inquiry concerning Speaker Gingrich and I was an attorney representing Speaker Gingrich in the
I am honored to offer unqualified support for James M. Cole to serve as Deputy Attorney General of the United States. Mr. Cole is one of the earliest and most vociferous advocates of bringing foreign Al-Qaeda terrorists to American cities for civilian trials—a position since repudiated by the Attorney General himself in the case of Khalid Shaikh Mohammed, and I am grateful for that. But Mr. Cole has never recanted his position that, in effect, these are criminal cases to be prosecuted as ordinary crimes rather than terrorist acts during a time of war.

The problem, of course, with the paradigm of treating terrorism as a criminal case is that we don’t punish the terrorists until they have actually been successful in committing a terrorist attack. In war, half the battle—maybe more than half the battle—is trying either to stop the terrorist from actually accomplishing his or her goal of killing innocent people. We do that by interrogating detainees and finding out what they know about the organization and plans of terrorist attacks. Mr. Cole, unfortunately, stands by the outdated, outmoded characterization of these terrorist attacks being ordinary crimes. Of course, they are something much worse indeed.

Quite frankly, as Mr. Holder’s Deputy, Mr. Cole will only exacerbate the worst tendencies of the Department of Justice when it comes to distinguishing between criminal prosecutions and fighting a war against terrorists. This was, of course, the primary reason why Mr. Cole’s nomination was unanimously rejected by Republicans in the Judiciary Committee.

The American people want a Department of Justice that is committed to enforcing the law and protecting the innocent, not creating new civil rights for terrorists or treating them as ordinary criminals when they are something else indeed.

Rather than listening to the concerns of Republicans on the Judiciary Committee about Mr. Cole’s narrow view of the war on terror and of the imperative of considering this flawed nomination, the President decided to plow ahead and bypass the advise and consent process with a recess appointment. As I said, he, of course, has the right to do so.

There are actually a couple other reasons why I oppose the nomination, and I wish to first express my appreciation to Senator Grassley and Senator Chambliss, of course, is the ranking member of the Senate’s Select Committee on Intelligence, and Senator Grassley is the ranking member of the Senate Judiciary Committee. They have continued to demand information from the Department of Justice and have been stonewalled at every turn. Senator Chambliss and his colleagues on the Intelligence Committee have made perfectly reasonable requests of the Administration’s Guantanamo Detainee Review Task Force. Senator Grassley, on the other hand, from his position as the ranking Republican on the Judiciary Committee, on which I serve, has requested documents concerning serious allegations that the Bureau of Alcohol, Tobacco, Firearms and Explosives knowingly allowed straw purchases to buy firearms that were then provided to criminal drug cartels in Mexico. It has later been reported that at least two of these weapons were found at the scene where a Border Patrol agent named Brian Terry was murdered.

I fully support Senators Grassley and Chambliss and regret that repeated requests for information that were well within the purview of the oversight responsibilities of Congress have been unreasonably rejected. When a minority in the Senate is denied the usual and customary information necessary for us to do our job, we are left

"Chambliss" and "Grassley"
I think the Intelligence Committee should know about it and why such guidance was considered appropriate.

The Department has also refused to provide the Intelligence committee with the task force’s recommendations for the disposition of the detainees. The task force documents we have been given have entire portions of their recommendations blacked out. This is no way to conduct oversight and it certainly puts the committee at a disadvantage in trying to understand why detainees were judged were too dangerous to transfer. Interestingly, the Department has provided the recommendations made by review boards during the previous administration.

As with the September 2009 memorandum, the Department argues against giving this information to Congress because of “deliberative process.” That assertion may work in a FOIA case or in the context of executive privilege, but there is no legal basis for maligning our Intelligence professionals’ oversight, especially where the documents pertain to national security matters. It is time for the Justice Department to abandon this baseless argument and give us the documents.

The Intelligence committee is also waiting for a list of the 92 detainees who were approved for transfer as of August 28, 2009, prior to the application of the September 2009 memorandum. The Department indicated in November 2010 that the list would be provided, but the committee has yet to receive it.

Last Friday, we heard from the Department for the first time in months, wanting to work something out on the documents in advance of the cloture vote on the Cole nomination. This is a bit ironic, considering that letters and e-mails from last year have gone unanswered. The best thing they can do now is to honor our request and give us the documents that we have requested.

The Department’s obstruction of a congressional review is not the only reason I am opposing cloture. Mr. Cole still has not explained comments he made about the 9/11 attacks. In September 2002, he wrote an op-ed in which he called these attacks “criminal acts of terrorism against a civilian population.” Following this logic, he diminished 9/11 to being no more than “the scourge of the drug trade, the reign of organized crime, and countless acts of rape, murder, and murder.” He also argued that the protections of our criminal justice system “must be applied to everyone to be effective.” I could not disagree more with this statement—no terrorist deserves the benefits of our criminal justice system.

Mr. Cole has neither rejected these comments, nor really explained why he made them. Until he does so, I have to question his judgment and his suitability to be the second-in-command at the Justice Department.

It is for these reasons, I cannot support cloture on the nomination of Mr. Cole at this time.

The PRESIDING OFFICER. The bill clerk proceeded to call the roll.

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

Mr. GRASSLEY. Mr. President, I ask for the regular order.

The PRESIDING OFFICER. Under the previous order and pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the nomination of Mr. Cole Chartier, to be Deputy Attorney General of the United States.

The question is, Is it the sense of the Senate that debate on the nomination of Mr. Cole shall be brought to a close?

The yeas and nays are necessary under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I also ask unanimous consent that the Senate from Wyoming (Mr. BARRASSO), the Senator from South Carolina (Mr. GRAHAM), the Senator from Utah (Mr. HATCH), the Senator from Arizona (Mr. MCCAIN), the Senator from Kansas (Mr. MORGAN), the Senator from Pennsylvania (Mr. TOOMEY), and the Senator from Louisiana (Mr. VITTER) be noted as present and voting, the Senator from Utah (Mr. HATCH) would have voted “nay.”

The yeas and nays resulted—yeas 50, nays 40, as follows:

Yeas—

Baucus
Baucus
Begich
Bennett
Berman
Blinnental
Brown (OH)
Akaka
Baucus
Begich
Bennett
Berman
Blinnental
Brown (OH)

Nays—

Feinstein
Franken
Gillibrand
Hagan
Harkin
Inouye
Johnson (SD)
TRIBUTE TO ALICE SAUDARGAS

Mr. DURBIN. Mr. President, I rise today to honor an outstanding Illinoisan, Alice Saudargas, and to thank her for her many years of service as she ends her term on the Rockford School Board.

Alice Saudargas is a remarkable public servant. She has dedicated her life to working with high-poverty schools and troubled children. Alice and her late husband Alex spent more than 70 years educating students in Rockford, and as she recently said “we loved every minute of it.”

Alice Christine Nesheim was born in 1916 in northern Illinois to Norwegian immigrants. She graduated first in her high school class and was the first in her family to attend college. She graduated with a degree from DeKalb State Teachers College, which is now Northern Illinois University. While there, she met her husband Alex Saudargas and they moved to Rockford to start a family.

Alice raised ten children and supported Alex as he led the basketball team at West High School to two legendary state championships in 1955 and 1956. In those days, Alice could always be seen at West’s basketball games, cheering on the team.

Alice retired from the school district in 1986 at the age of 70, but she didn’t slow down or lose her passion for education. She led committees to help make the Rockford schools more inclusive of all children and to maintain the legacy of West High School. At the age of 84, Alice was appointed to complete a term on the Rockford School Board. She was subsequently elected in her own right and served on the board for 11 years. Her last day as a Rockford School Board member was April 26.

Alice is supported in all her endeavors by her surviving children, 16 grandchildren, and 14 great-grandchildren as well as the hundreds of students she has supported and mentored throughout her long career. She has touched the lives of countless individuals in my state. She is renowned for her commitment to Rockford’s neediest children, her strong spirit, and of course her trademark laugh.

Although not just an employee of the restaurant, Alice was not just an employee of the restaurant but an extremely dangerous sexual predator with 24 previous convictions, including rape and kidnapping.

Ally’s tragic death and countless other attacks were the result of a legal system that failed to protect victims and make our communities safer. The ALLY Foundation was established by Ally’s family and friends to honor her legacy and to help prevent sexual violence. The foundation has supported research, advocacy, and training to help communities create safer environments for all.

TRIBUTE TO JODY HERNANDEZ

Mr. McCONNELL. Mr. President, in the midst of all our other business, I would like to just pause and take a moment to recognize the outstanding work of Jody Hernandez, who left us yesterday after 16 years of dedicated Senate service. Jody came to Washington, by way of San Antonio, after graduating from Vanderbuilt University.

Over the years, she has lent her talents to the Budget Committee, the Finance Committee, and with Senator Don Nickles on and off the Hill. David Schiappa convinced her to come back to the Senate in 2005, and she has been an indispensable part of the Senate floor team ever since. Whenever any of us had a question, she had the answer. She has been a friendly and welcoming presence in the cloakroom, regardless of how long her day was. She has represented everyone here and everyone knew that she spoke for everyone here. And we will all miss her. But we are all delighted that she has found her partner in life, and we wish her and her new husband, LCDR Glenn Wright, U.S. Navy, many years of happiness and every happiness to their new family.

I thank Alice for her lifelong efforts at professionalism, and her service.
system largely unequipped to handle the unique dynamics of sexual predation. Ally’s killer should never have been free, let alone work around the general public.

In less than a decade, The ALLY Foundation has had a profound impact on public policy. It is impossible to know how many lives have been saved or how many were spared the physical and emotional scars of sexual abuse and violence. But the fact remains that thanks to The ALLY Foundation, public officials and employers are far better educated and equipped to enact laws and adjust policies to reflect the unique nature of sexual violence. I commend Andrea and Steve for all they do.

ROONEY NOMINATION

Mr. WYDEN. Mr. President, in March, I was compelled to place a hold on the nomination of Jo Ann Rooney to be Principal Deputy Under Secretary of Defense for Personnel and Readiness, when I was not satisfied that the military had properly investigated the mis-treatment of some members of the Oregon National Guard who were demobilizing at Joint Base Lewis-McChord, JBLM.

I am pleased to say that today I am lifting that hold.

I have had meetings and exchanged letters with Secretary of the Army John McHugh, Army Vice Chief of Staff General Peter Chiarelli, Major General Philip Volpe, Jo Ann Rooney, and Dr. Clifford Stanley, who will be Dr. Rooney’s supervisor if she is confirmed. I have also received several documents related to the investigations, and written answers to more than 60 questions about the investigations.

I am satisfied that the actions taken by the Army put them on the right path to ensuring that future National Guard soldiers receive all of the care and benefits to which they are entitled. I will continue to closely monitor the implementation of the changes the Army is making. However, I believe that Dr. Rooney would, if confirmed, work to ensure that all servicemembers get appropriate medical care, and improve the demobilization process.

I would urge the Senate to quickly and positively act on Dr. Rooney’s nomination.

ADDITIONAL STATEMENTS

TRIBUTE TO THOMAS J. PAMPERIN

Mr. AKAKA. Mr. President, I would like to take a moment today to recognize the long and distinguished career of Mr. Thomas J. Pamperin of the Department of Veterans Affairs, VA. After nearly four decades of public service, beginning with the U.S. Army and now as the VA’s Deputy Under Secretary for Disability Assistance, Tom is retiring. From his days as a VA claims examiner in Milwaukee to his present leadership position, he has ably served our Nation’s veterans.

Tom has earned an excellent reputation with Members of Congress and the Department of the Senate Committee on Veterans’ Affairs, of which I was proud to serve as chairman during the 109th and 110th Congresses. He also receives high praise from leaders of veterans service organizations, the Department of Defense, the Social Security Administration, and the Department of Justice. He has represented the VA with distinction before the Congress, other Federal agencies, and foreign delegations.

During my chairmanship of the Veterans’ Affairs Committee, Tom was the “go to person” for matters of critical importance to veterans, especially those seeking compensation for their war wounds. In the essence, he cut through the red tape and personally saw to it that the veteran got the benefits that were due. More broadly, he has led efforts to improve the delivery of benefits to all veterans, including initiatives to ease the burden on post-traumatic stress disorder, to enable veterans to begin the claims process before discharge from military service, to better coordinate the delivery of military and VA benefits, and to automate the claims process to improve benefits under the new G.I. bill.

In particular, I thank Tom for the work he did in improving VA’s evaluation of and ratings for veterans with traumatic brain injuries, TBI. Soon after becoming chairman of the Veterans’ Affairs Committee, I asked former VA Under Secretary for Benefits, Daniel L. Cooper, about limitations on TBI ratings to 10 percent and no more. Tom played a significant role in VA’s development of its temporary guidance so that VA could promptly address cases where the limitation should not be applied and developed final regulations to ensure more appropriate ratings in subsequent claims. Tom’s actions had an immediate and sustained impact on the lives of veterans who were injured in Iraq and Afghanistan.

Nearly 40 years of service to the Nation demonstrates a commitment to public service. Tom has worked tirelessly to ensure that veterans receive the benefits that they deserve, a goal that has become ever more challenging with increases in the number of servicemembers returning from the conflicts in Iraq and Afghanistan who have serious injuries, the demand for G.I. bill benefits, and the number of compensable illnesses. Over the course of his career, Tom has devoted himself to delivering on the Nation’s promise to our veterans and their families. Today, I applaud his dedication, hard work, and countless achievements, and I ask my colleagues to join me in thanking him for his many years of service to the country and to the many veterans whose lives he has improved in such crucial ways. His record is an example of public service at its best, and I deeply appreciate his long commitment to those who have worn the nation’s uniform. I wish him all the best in his future endeavors.

WORLD WAR II HEROES FLIGHT

Mr. CORNYN. Mr. President, today I wish to acknowledge and honor a very special group of veterans. In appreciation for their selfless service to our country, Brookshire’s Grocery Store and Super 1 Foods have sponsored a World War II Heroes Flight that has brought 33 World War II veterans to Washington, DC, free of charge.

I want to take a moment to thank these brave veterans visiting our Nation’s Capital, including six that are from Texas: John Neeld, Brookshire, TX; Gene Germaine, Longview, TX; Glen Kernohan, Longview, TX; Hugh Neeld, Jacksonville, TX; Dale Whitten, Tyler, TX; and Jim David Woolvert, Tyler, TX.

During this trip, these veterans will tour Arlington National cemetery, the Iwo Jima Memorial, the World War II Memorial, the United States Capitol, and other sites. This program provides many veterans with their only opportunity to see the great memorials dedicated to their service and sacrifice.

Thus, today, I ask my colleagues to join me in honoring these great Americans and thanking them for their devotion and service to our Nation.

TRIBUTE TO REV. ROBERT A. WILD, S.J.

Mr. KOHL. Mr. President, I wish to honor Reverend Robert A. Wild, S.J., president of Marquette University in Milwaukee. Father Wild began his duties as president of Marquette University on June 17, 1996, with a pledge that he would “spare no effort in keeping Marquette on a strong and clear path into the future.” As he enters retirement on July 31, 2011, it is my belief that my friend has not strayed from his pledge.

As a Catholic, Jesuit institution, Marquette promotes an academically rigorous and values-centered curriculum. Throughout his presidency, Father Wild has encouraged the practical preparation of students for work in an increasingly complex and diverse world, advocating for the formation of individuals as ethical and informed leaders in their religious, cultural, professional, and civic communities. Through this work, Father Wild has demonstrated a deep care and understanding of the development of young people.

Early in his career as president, Father Wild oversaw the rewriting of Marquette’s mission statement in an effort to clearly define what all people,
young and old, should strive toward on a daily basis. The mission statement was reorganized under the key values of excellence, faith, leadership and service. These values have permeated all aspects of Father Wild’s tenure as he has constantly inspired the Marquette community in the fostering of personal and professional excellence, the promotion of a life of faith, and the development of leadership expressed in service to others.

Father Wild has boldly committed Marquette to making higher education accessible to all students, regardless of financial means. To accomplish this, Marquette became the first university in the country to partner with the Boys & Girls Clubs of America to offer full-tuition scholarships. This program and others have helped many first-generation students attend college, so much so that 20 percent of Marquette’s students are the first in their families to attend college.

There are the 36,000 students who have received a Marquette degree under Father Wild’s tenure have had the advantage of learning from renowned faculty members who work to advance knowledge and improve the world. Over Father Wild’s career, faculty members and students have seen a 130-percent increase in total research and sponsored project dollars.

Beyond research and academics, Father Wild has placed an emphasis on community interaction that has made Marquette a focal point for discussion of the region’s most important and complex societal issues. Thanks to these interactions, Marquette’s presence in southeast Wisconsin is stronger than ever before. Father Wild has expanded the university’s outreach through service and faculty research, and currently more than 85 percent of Marquette students serve their community.

The physical growth of the Marquette campus is one of the most obvious indicators of Father Wild’s commitment to the university. Father Wild oversaw the financing, construction and completion of a new facility for the Marquette University School of Dentistry, training the State’s future dentists and promoting oral health through outreach programs that target underserved patients in six clinical sites throughout the State, making Marquette one of the largest Medicaid providers in the State. All of this growth has been fueled by unprecedented fundraising led by Father Wild.

In addition to promoting academics and service, Father Wild was strategic in helping Marquette enter the Big East Athletic Conference in 2005. In 6 short years, the school has enjoyed success in many of its athletic programs, most prominently a Sweet 16 run in the 2011 NCAA Men’s Basketball Tournament. I offer my gratitude and sincerest thanks to my friend Father Wild on his retirement from Marquette University.

His presidency, based in the values of excellence, faith, leadership and service, has inspired countless individuals not only in the Marquette community but in Milwaukee and throughout Wisconsin that will be felt for years to come.

HOOSIER ESSAY CONTEST WINNERS

Mr. LUGAR. Mr. President, I wish today to take a moment to congratulate the winners of the 2010–2011 Dick Lugar/Indiana Farm Bureau/Indiana Farm Bureau Insurance Companies Youth Essay Contest.

In 1985, I joined with the Indiana Farm Bureau to sponsor an essay contest for 8th grade students in my home State. The purpose of this contest is to encourage young Hoosiers to recognize and appreciate the importance of Indiana agriculture in their lives and subsequently write to the assigned theme. The theme chosen for this year was “Agriculture: Then and Now.”

Along with my friends at the Indiana Farm Bureau and Indiana Farm Bureau Insurance, I am pleased with the annual response to this contest and the quality of the essays received over the years. I applaud each of this year’s participants on their thoughtful work and wish, especially, to highlight the submissions of the 2010-2011 contest winners Alexis J. Carmony of Falmouth, Indiana, and Collin Bowlin of Jasper, Indiana. I submit for the RECORD the complete text of Alexis’s and Collin’s respective essays. I am pleased, also, to include the names of the many district and county winners of the contest.

The essays and winners follow.

Agriculture: Then and Now

(By Alexis J. Carmony)

Indiana agriculture is important to me because of the basic values it instills in my life. Agriculture is about hard work, appreciation for life and living things, the importance of our soil and water conservation, perseverance, ability to overcome hardships and being creative in dealing with factors beyond man’s control.

Indiana agriculture has an amazing responsibility. Years ago, Indiana farmers were proud to feed their families from the farm; today Indiana farmers are proud to feed the world from their farms. The heart of Indiana agriculture has not changed from decades ago. Past generations had to physically work hard to produce their product, whereas the present generations have to work as hard for the skill it takes to market their product.

From the time I went with my great grandfather to feed his cattle and sensed his love for those animals, I was hooked on agriculture. Even when those animals did not cooperate, grandpa still loved them. He has cared for livestock for years, and he enjoys it today as he did years ago. My great grandfather owned swine, and poultry. He is my grandfather. He has instilled in me to be good care of these blessings, land and livestock. As a young boy, Grandpa worked the land with a team of horses. Now we have horsepower to more efficiently produce the crops people rely upon every day. After his eighth grade year in school, Grandpa had no choice but to end his schooling early in order to help out on his family’s farm. As an eighth grade student today, I have many choices, and I know I will attend college in the future.

My love for raising, showing, and judging beef cattle and pigs has given me many opportunities. Agriculture will always play a huge role in my life. I am proud to be one voice supporting the agricultural industry which provides food, fiber, and fuel to the world. The economic and environmental issues facing farmers today need to be addressed by knowledgeable people. So now, it is my turn to take over, where Grandpa left off.

2010–2011 DISTRICT ESSAY WINNERS

DISTRICT 1

Gabrielle Carlson, Quinn McGovern.

DISTRICT 2

Katie Lopshire, William Joseph Rockey.

DISTRICT 3

Shelbi Perry, Dakota Burghardt.

DISTRICT 4

Rachel Girod, Nathan Chou.

DISTRICT 5

Shane Slaven, Kiersten Mundy.

DISTRICT 6

Katie Pfaff, Max Keller.

DISTRICT 7

Easton Booe, Whitney Halfhill.

DISTRICT 8

Josh Orschell, Alexis J. Carmony.

DISTRICT 9

Anna Hagedorn, Collin Bowlin.

DISTRICT 10

Amber Moore, Clayton Pottschmidt.

2010–2011 COUNTY ESSAY WINNERS

ADAMS

Eli Hill, Adams Central Middle School; Rachel Girod, Bellmont Middle School.

ALLEN

Robert Otteweller and Aubrey Fespel, Saint Joseph High School.

BARTHOLOMEW

Mark Buffo and Meredith Dickerson, Central Middle School.

FAYETTE

Gabrielle Carlson, Quinn McGovern.

PAWPAW

Katie Lopshire, William Joseph Rockey.

ST. JOSEPH

Shelbi Perry, Dakota Burghardt.

ST. JOSEPH COUNTY

Rachel Girod, Nathan Chou.

WALKER

Shane Slaven, Kiersten Mundy.

WASHINGTON

Katie Pfaff, Max Keller.

WASHINGTON COUNTY

Easton Booe, Whitney Halfhill.

WARRICK

Josh Orschell, Alexis J. Carmony.

WORLDWIDE

Anna Hagedorn, Collin Bowlin.

WOODBURY

Amber Moore, Clayton Pottschmidt.
The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–1512. A communication from the Chairman and Chief Executive Officer, Fidelity National Information Services, Inc., recommending that the communications be placed on the calendar:

EC–1513. A communication from the Secretary of Defense, transmitting, pursuant to law, a report relative to the current and future military strategy of Iran (DCN OSS 2011–0754); to the Committee on Armed Services.

EC–1514. A communication from the Assistant Secretary, Bureau of Political-Military Affairs, Department of State, transmitting, pursuant to law, an addendum to a certification, transmittal number: DDTC 11–008, of the proposed sale or export of defense articles, including technical data, and defense services to a Middle East country regarding any possible affects such a sale might have relating to Israel’s Qualitative Military Edge over military threats to Israel; to the Committee on Armed Services.

EC–1515. A joint communication from the Secretary of Defense and the Secretary of Energy, transmitting, pursuant to law, a report relative to nuclear weapons (DCN OSS 2011–0746); to the Committee on Armed Services.

EC–1516. A communication from the Under Secretary of Defense (Acquisition, Technology, and Logistics), transmitting, pursuant to law, a report entitled “Report on Activities and Programs for Countering Proliferation and NBC Terrorism” (DCN OSS 2011–0758); to the Committee on Armed Services.

EC–1517. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, a report relative to the Joint Improvised Explosive Device Defeat Organization’s Third Quarter Report for Calendar Year 2011 (DCN OSS 2011–217); to the Committee on Armed Services.

EC–1518. A communication from the Assistant Secretary, Bureau of Political-Military Affairs, Department of State, transmitting, pursuant to law, an addendum to a certification, transmittal number: DDTC 11–008, of the proposed sale or export of defense articles, including technical data, and defense services to a Middle East country regarding any possible affects such a sale might have relating to Israel’s Qualitative Military Edge over military threats to Israel; to the Committee on Armed Services.

EC–1519. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled “Defense Federal Acquisition Regulation Supplement: Guidance on Personal Services” (RIN 0750–AG72) (DFARS Case 2009–D023) received in the Office of the President of the Senate on May 4, 2011; to the Committee on Armed Services.

EC–1520. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled “Defense Federal Acquisition Regulation Supplement: Electronic Ordering Procedures” (RIN 0750–AH20) (DFARS Case 2009–D023)...

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:
EC–1531. A communication from the Assistant Secretary of Defense (Legislative Affairs), transmitting legislative proposals relative to the National Defense Authorization Act for Fiscal Year 2011; to the Committee on Armed Services.

EC–1532. A communication from the Assistant Secretary of Defense (Legislative Affairs), transmitting legislative proposals relative to the National Defense Authorization Act for Fiscal Year 2012; to the Committee on Armed Services.

EC–1533. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled “Medicare Program: Hospital Inpatient Value-Based Purchasing Program” (RIN0938-AQ65) received in the Office of the President of the Senate on May 4, 2011; to the Committee on Finance.

EC–1534. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled “Medical Devices: Pre-market Assessment of Special Risk–Failing the Humanitarian Device Exemption Clarification Temporary Act of 2011”; to the Committee on Homeland Security and Governmental Affairs.

EC–1535. 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 19–55 “Real Property Tax App- raising System, Fiscal Year 2012” (RIN0938-AQ64) received in the Office of the President of the Senate on May 4, 2011; to the Committee on Finance.


EC–1537. 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 19–57 “Not-for-Profit Hospital Corporation Board Chairperson Designation Temporary Amendment Act of 2011”; to the Committee on Homeland Security and Governmental Affairs.


EC–1539. A communication from the Chair- man, Board of Governors of the Federal Re- serve System, transmitting, pursuant to law, the “Quarterly Report to Congress for the six-month period from October 1, 2010 through March 31, 2011”; to the Committee on Homeland Security and Governmental Affairs.

EC–1540. A communication from the Assistant Secretary of Defense (Legislative Affairs), transmitting a legislative proposal relative to the National Defense Authorization Act for Fiscal Year 2012; to the Committee on Homeland Security and Governmental Affairs.

EC–1541. 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 19–53 “District of Columbia Education and Ethics Primary Date Alteration Amendment Act of 2011”; to the Committee on Homeland Security and Governmental Affairs.


EC–1543. 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 19–55 “Real Property Tax App- raising System, Fiscal Year 2012” (RIN0938-AQ64) received in the Office of the President of the Senate on May 4, 2011; to the Committee on Homeland Security and Governmental Affairs.


EC–1545. 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 19–57 “Not-for-Profit Hospital Corporation Board Chairperson Designation Temporary Amendment Act of 2011”; to the Committee on Homeland Security and Governmental Affairs.


EC–1548. A communication from the Chair- man, Board of Governors of the Federal Re- serve System, transmitting, pursuant to law, the “Quarterly Report to Congress for the six-month period from October 1, 2010 through March 31, 2011”; to the Committee on Homeland Security and Governmental Affairs.

EC–1549. 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 19–53 “District of Columbia Education and Ethics Primary Date Alteration Amendment Act of 2011”; to the Committee on Homeland Security and Governmental Affairs.

EC–1550. A communication from the Staff Director, United States Office of Human Rights, transmitting, pursuant to law, the report of the appointment of members to the...
EC–1551. A communication from the Staff Director, United States Commission on Civil Rights, transmitting, pursuant to law, the report of the appointment of members to the Minnesota Advisory Committee; to the Committee on the Judiciary.

EC–1552. A communication from the Staff Director, United States Commission on Civil Rights, transmitting, pursuant to law, the report of the appointment of members to the Illinois Advisory Committee; to the Committee on the Judiciary.

EC–1553. A communication from the Assistant Secretary of the Regulations Policy and Management Office, Veterans Health Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled "Caregivers Program" (RIN 2600–0199) received in the Office of the President on May 4, 2011; to the Committee on Veterans’ Affairs.

EC–1554. A communication from the Director, Administrative Office of the United States Courts, transmitting, pursuant to law, a report relative to time limitations established for deciding habeas corpus death penalty petitions; to the Committee on the Judiciary.

EC–1555. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, an annual report entitled "Report to the Congress on the Refugee Resettlement Program"; to the Committee on the Judiciary.

EC–1556. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, an annual report on applications made by the Government for authority to conduct electronic surveillance and physical searches during calendar year 2010; to the Committee on the Judiciary.

EC–1557. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, an annual report on the Department’s activities during calendar years 2008 and 2009 relative to prison rape abatement; to the Committee on the Judiciary.

EC–1558. A communication from the Chair, U.S. Sentencing Commission, transmitting, pursuant to law, the amendments to the federal sentencing guidelines that were proposed by the Commission during the 2010–2011 amendment cycle; to the Committee on the Judiciary.

EC–1559. A communication from the Clerk, United States Court of Appeals, transmitting an opinion of the United States Court of Appeals for the Seventh Circuit; to the Committee on the Judiciary.

EC–1560. A communication from the Deputy General Counsel, Office of Financial Assistance, Small Business Administration, transmitting, pursuant to law, the report of a rule entitled "Intermediary Lending Pilot Program" (RIN3245–AG18) received in the Office of the President on May 4, 2011; to the Committee on Small Business and Entrepreneurship.

EC–1561. A communication from the Associate Director, Office of Government Contracting and Business Development, Small Business Administration, transmitting, pursuant to law, an annual 408 Report on the (a) Business Development Program; to the Committee on Small Business and Entrepreneurship.


EC–1563. A communication from the Director of the Regulations Policy and Management Office, Veterans Health Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled "Caregivers Program" (RIN 2600–0199) received in the Office of the President on May 4, 2011; to the Committee on Veterans’ Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, with an amendment:

S. 498. A bill to require objective, independent review of task and delivery orders (Rept. No. 112–16).

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of nominations were submitted:

By Mr. LEAHY for the Committee on the Judiciary.

S. 910. A bill to confirm the nominations of Lisa Monaco, of the District of Columbia, to be an Assistant Attorney General; Bernice Boogie Donald, of Tennessee, to be United States Circuit Judge for the Sixth Circuit; Virginia A. Seitz, of the District of Columbia, to be an Assistant Attorney General; Denise Ellen O’Donnell, of New York, to be Director of the Bureau of Justice Assistance; (Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mrs. SHAHEEN (for herself and Ms. AYOTTE):

S. 910. A bill to amend title 38, United States Code, to ensure that veterans in each of the 48 contiguous States are able to receive services in at least one full-service Department of Veterans Affairs medical center in the State or receive comparable services provided by contract in the State, and for other purposes; to the Committee on Veterans’ Affairs.

By Mr. ROCKEFELLER (for himself and Mrs. HUTCHISON):

S. 911. A bill to establish the sense of Congress that Congress should enact, and the President should sign, bipartisan legislation to strengthen public safety and to enhance wireless communications; to the Committee on Commerce, Science, and Transportation.

By Mr. WICKER:

S. 912. A bill to prevent foreign states that do business, issue securities, or borrow money in the United States, and fail to satisfy United States court judgments totaling $100,000,000 or more based on such activities, from exploiting further economic injuries in the United States, from undermining the integrity of United States courts, and from discouraging responsible lending to poor and developing nations by undermining the second mortgage market and sovereign debt; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. ROCKEFELLER:

S. 913. A bill to allow the Federal Trade Commission to prescribe regulations regarding the collection and use of personal information obtained by tracking the online activity of an individual, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SANDERS:

S. 915. A bill to provide for health care for every American and to control the cost and enhance the quality of the health care system; to the Committee on Finance.

By Mr. BINGAMAN:

S. 916. A bill to facilitate appropriate oil and gas development on Federal land and waters, to limit dependence of the United States on foreign sources of oil and gas, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BINGAMAN:

S. 917. A bill to amend the Outer Continental Shelf Act, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BAUCUS:

S. 918. A bill to direct the Secretary of Transportation to carry out programs and activities to improve highway safety; to the Committee on Commerce, Science, and Transportation.

By Mr. HARKIN (for himself and Mrs. GILLIBRAND):

S. 919. A bill to authorize grant programs to ensure successful, safe, and healthy students in the United States; to the Committee on Education, Labor, and Pensions.

By Mr. BLUNT (for himself, Ms. STABENOW, and Mrs. MCCASKILL):

S. 920. A bill to create clean energy jobs and set efficiency standards for small-duct high-velocity air conditioning and heat pump systems, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SCHUMER (for himself, Mr. VITTER, Mr. KYL, and Mr. INHOPE):

S. 921. A bill to allow otherwise eligible Israeli nationals to receive E–2 nonimmigrant visas if similarly situated United States nationals are eligible for similar nonimmigrant status in Israel; to the Committee on the Judiciary.

By Mrs. GILLIBRAND:

S. 922. A bill to amend the Workforce Investment Act of 1998 to authorize the Secretary of Labor to provide grants for Urban Jobs Programs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. VITTER (for himself, Ms. AYOTTE, Mr. KYL, and Mr. INHOPE):

S. 923. A bill to withhold United States contributions to the United Nations until the United Nations formally retracts the report of the United Nations Fact Finding Mission on the Gaza Conflict; to the Committee on Foreign Relations.

By Mr. BINGICH:

S. 924. A bill to amend the Internal Revenue Code of 1986 to provide commuter flexible spending arrangements, and for other purposes; to the Committee on Finance.

By Mrs. BOXER:

S. 925. A bill to designate Mt. Andrea Lawrence to the Committee on Energy and Natural Resources.

By Mr. MENENDEZ (for himself, Mr. LUTTENBERG, Ms. MIKULSKI, and Mr. CARDIN):

S. 926. A bill to amend the Outer Continental Shelf Lands Act to permanently prohibit the conduct of offshore drilling on the
SUBMISSION OF CONCURRENT AND
SENATE RESOLUTIONS

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

By Ms. KLOBUCHAR (for herself and 
Mr. THUNE):
S. Res. 173. A resolution designating the week of May 1 through May 7, 2011, as "National Physical Education and Sport Week"; to the Committee on the Judiciary.

By Mr. LIEBERMAN (for himself and 
Ms. COLLINS):
S. Res. 174. A resolution expressing the sense of the Senate that effective sharing of passenger information from inbound international flight manifests is a crucial component of our national security and that the Department of Homeland Security must maintain the information sharing standards required under the 2007 Passenger Name Record Agreement between the United States and the European Union; to the Committee on Homeland Security and Governmental Affairs.

ADDITIONAL COSPONSORS

S. 146
At the request of Mr. BAUCUS, the name of the Senator from Arkansas (Mr. BOOZMAN) was added as a cosponsor of S. 146, a bill to amend the Internal Revenue Code of 1986 to extend the work opportunity credit to certain recently discharged veterans.

S. 296
At the request of Ms. KLOBUCHAR, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 296, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide the Food and Drug Administration with improved capacity to prevent drug shortages.

S. 390
At the request of Mr. WEBB, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 390, a bill to amend the Sherman Act to make oil-producing and exporting cartels illegal.

S. 394
At the request of Mr. KOHL, the names of the Senator from Ohio (Mr. BROWN) and the Senator from West Virginia (Mr. MANCHIN) were added as cosponsors of S. 394, a bill to amend the Sherman Act to make oil-producing and exporting cartels illegal.

S. 426
At the request of Mr. SANDERS, the name of the Senator from Washington (Mrs. MURREY) was added as a cosponsor of S. 426, a bill to strengthen student achievement and graduation rates and prepare young people for college, careers, and citizenship through innovative partnerships that meet the comprehensive needs of children and youth.

S. 455
At the request of Mrs. GILLIBRAND, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 455, a bill to prevent mail, telemarketing, and Internet fraud targeting seniors in the United States, to promote efforts to increase public awareness of the enormous impact that mail, telemarketing, and Internet fraud have on seniors, to educate the public, seniors, and their families, and to their caregivers about how to identify and combat fraudulent activity, and for other purposes.

S. 481
At the request of Mr. HARKIN, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 481, a bill to enhance and further research into the prevention and treatment of eating disorders, to improve access to treatment of eating disorders, and for other purposes.

S. 489
At the request of Mr. McCAIN, the name of the Senator from New Hampshire (Ms. AYOTTE) was added as a cosponsor of S. 489, a bill to amend the Food, Conservation, and Energy Act to repeal a duplicative program relating to inspection and grading of catfish.

S. 501
At the request of Mr. REED, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 501, a bill to require certain mortgagees to evaluate loans for modifications to establish a grant program for State and local government mediation programs, and for other purposes.

S. 541
At the request of Mr. McCAIN, the name of the Senator from New Hampshire (Ms. AYOTTE) was added as a cosponsor of S. 541, a bill to amend the Sherman Act to make oil-producing and exporting cartels illegal.

S. 634
At the request of Mr. McCAIN, the name of the Senator from New Hampshire (Ms. AYOTTE) was added as a cosponsor of S. 634, a bill to require that the courts of the United States may provide an impartial forum for claims brought by United States citizens and others against any railroad organized as a separate legal entity, arising from the deportation of United States citizens and others to Nazi concentration camps on trains owned or operated by such railroad, and by the heirs and survivors of such persons.

S. 641
At the request of Mr. DURBIN, the name of the Senator from Delaware (Mr. COONS) was added as a cosponsor of S. 641, a bill to provide 100,000,000 people with first-time access to safe drinking water and sanitation on a sustainable basis within six years by improving the capability of the United States Government to fully implement the Senator Paul Simon Water for the Poor Act of 2005.

S. 668
At the request of Mr. CORNYN, the name of the Senator from Arkansas (Mr. BOOZMAN) was added as a cosponsor of S. 668, a bill to remove unelected, unaccountable bureaucrats from seniors' personal health decisions by repealing the Independent Payment Advisory Board.

S. 720
At the request of Mr. THUNE, the name of the Senator from South Dakota (Mr. JOHNSON) was withdrawn as a cosponsor of S. 720, a bill to repeal the CLASS program.

S. 729
At the request of Mr. MURKOWSKI, the name of the Senator from Hawaii (Mr.
S. 730. A bill to amend title 38, United States Code, to ensure that veterans in each of the 48 contiguous States are able to receive services in at least one full-service Department of Veterans Affairs medical center in the State or receive comparable services provided by contract in the State, and for other purposes; to the Committee on Veterans’ Affairs.

Mrs. SHAHEEN. Mr. President, today I am introducing the Veterans Health Equity Act of 2011. This bill would require the Department of Veterans Affairs to ensure that every State has either a full-service veterans hospital or, in the alternative, that veterans in every State have access to comparable in-state hospital care and medical services. I am pleased that my colleague from New Hampshire, Senator AYOTTE, has agreed to be an original cosponsor of this measure.

New Hampshire is currently the only State that does not have either a full-service veterans center or a military hospital providing comparable services to veterans. While the staff of the Manchester VA Medical Center does an excellent job of caring for our State’s veterans, this facility does not provide inpatient surgical care, emergency services or care in a number of critical specialties. This imposes a great burden on many New Hampshire veterans who are forced to travel out of state for a range of medical services.

New Hampshire has over 130,000 veterans and this number continues to grow as our troops return from major deployments in the Middle East. It is unconscionable that our veterans must board shuttles to larger VA facilities in Massachusetts or Vermont to get the medical care they have been promised in exchange for their service. Often, especially during the winter months, travel is difficult in New England, and our veterans should not be forced to drive long distances in order to receive the medical care they have earned and deserve.

Our goal is to ensure that New Hampshire veterans get the care they need as close to home as possible. This legislation provides the Department of Veterans Affairs with the flexibility to achieve this end in the most cost-effective manner. If it is not feasible for the VA to construct a new full-service hospital in New Hampshire or to provide full-service centers at its existing medical center in Manchester, the legislation simply requires the VA to contract with other health providers to offer comparable in-state care.

I introduced similar legislation in the 111th Congress with our former colleague, Senator Judd Gregg. Since that time, the VA has established an effective contractual relationship with one hospital in New Hampshire, Concord Hospital, to expand in-state care for veterans. I believe this type of partnership could be readily expanded. I have begun working with officials at the Department of Veterans Affairs to
find innovative ways to enhance public-private health care partnerships in New Hampshire and look forward to furthering that dialogue.

Our veterans deserve access to first-rate medical care, regardless of where they live. There are full-service veterans hospitals in 47 States and veterans in Alaska and Hawaii are able to receive care at military hospitals. New Hampshire alone has neither. I am hopeful that my colleagues will recognize this inequity and support this effort to help veterans in New Hampshire veterans with the same access to quality local health care that veterans in every other State enjoy.

I look forward to working with the entire New Hampshire congressional delegation, with my Senate colleagues and with the Obama administration to end this injustice.

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. 910

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 called the "Veterans Health Equity Act of 2011".

SEC. 2. AVAILABILITY OF FULL-SERVICE DEPARTMENT MEDICAL CENTERS IN CERTAIN STATES OR PROVISION OF COMPARABLE SERVICES THROUGH CONTRACT WITH OTHER HEALTH CARE PROVIDERS IN THE STATE.

(a) IN GENERAL.—Chapter 17 of title 38, United States Code, is amended by inserting after section 1706 the following new section:

"§ 1706A. Management of health care: access to full-service Department medical centers in certain States or comparable services through contract with other health care providers in the State.

"(a) REQUIREMENT.—With respect to each of the 48 contiguous States, the Secretary shall ensure that veterans in the State eligible for hospital care and medical services under section 1710 of this title have access—

"(1) to at least one full-service Department medical center in the State; or

"(2) to hospital care and medical services comparable to the services typically provided by full-service Department medical centers through contract with other health care providers in the State.

"(b) RULE OF CONSTRUCTION.—Nothing in subsection (a) shall be construed to limit the ability of the Secretary to provide enhanced care to an eligible veteran who resides in one State in a Department medical center in another State.

"(c) LIMITATION ON REQUIREMENT.—Subsection (a) shall not apply to a fiscal year only to the extent in which the Secretary, pursuant to a decision of such requirement, determines that such requirement is not feasible.

"(d) FULL-SERVICE DEPARTMENT MEDICAL CENTER DEFINED.—In this section, the term "full-service Department medical center" means a facility of the Department that provides medical services, including hospital care, medical services, and surgical care rated by the Secretary as having a surgical complexity level of standard.

"(b) CLINICAL AMENDMENT.—The table of sections following the last section of such chapter is amended by inserting after the item relating to section 1706 the following new item:

"1706A. Management of health care: access to full-service Department medical centers in certain States or comparable services through contract with other health care providers in the State.

"(c) REPORT ON IMPLEMENTATION.—Not later than one year after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to Congress a report describing the extent to which the Secretary has complied with the requirement imposed by section 1706A of title 38, United States Code, as added by subsection (a), including the effect of such requirement on improving the quality and standards of care provided to veterans.

"Ms. AYOTTE. Mr. President, I rise today to highlight the Veteran's Health Equity Act, a bill I am introducing with my colleague from the Granite State, Senator JEANNE SHAHEEN. I am pleased to support this bipartisan legislation that addresses an issue of importance to our Nation's heroic military veterans, especially in my home State of New Hampshire.

As a military spouse, I personally understand the commitment and sacrifice required of our service members and their families, and I am fully committed to ensuring that our heroes have access to the support and care they have earned. The bill we are introducing would level the playing field for veterans by requiring the Department of Veterans Affairs to guarantee that veterans in every State have access to full-service VA hospital care within their borders. As it stands now, New Hampshire is the only State in the nation without a full-service VA hospital or military hospital providing equivalent care to veterans. Specifically, the Veteran's Health Equity Act would require the VA to either provide a full-service VA hospital in every State or contract with civilian hospitals to provide veterans with a comparable level of care.

While some States, like Alaska and Hawaii, rely on large military medical facilities to compensate for gaps in VA medical care, New Hampshire lacks the military medical facilities to compensate for a lack of a full-service VA hospital. Yet, New Hampshire has one of the highest rates of veterans per capita in the country. New Hampshire veterans must travel out of State to Maine, Massachusetts, or Vermont to access certain kinds of specialty care. Elderly veterans are often bused by the Department of Veterans Affairs to nearby VA medical centers to accommodate that consumer preference.

As a member of the Armed Services Committee, I will continue to press for a full-service VA hospital in New Hampshire and explore all legislative remedies to ensure that our New Hampshire veterans receive the care they deserve. My 95 year old grandfather, John Sullivan, a World War II veteran, and veterans like him who have selflessly served our country, have earned high-quality medical care that is commensurate with their courageous service. We must honor our commitments to America's brave veterans. The Veteran's Health Equity Act will help ensure every veteran in the United States can access quality medical care without having to travel to another State.

By Mr. ROCKEFELLER:

S. 913. A bill to require the Federal Trade Commission to issue regulations regarding the collection and use of personal information obtained by tracking the online activity of an individual, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. ROCKEFELLER. Mr. President, I rise to introduce the Do-Not-Track Online Act of 2011; and I ask for unanimous consent that the bill be printed for the record. This bill is a first step towards furthering consumer privacy by empowering Americans with the ability to control their personal information and prevent online companies from collecting and using that information, if they so choose.

Do-Not-Track is a simple concept. It allows consumers, with a simple click of the mouse or the press of the button, to tell the entire online world, "Do not collect information about me. I care about my privacy. And I do not want my information used in ways I do not expect or approve of." Under this bill, online companies would have to honor that user declaration, and cease the information collection and use practices to which consumers have said, "no." My bill would direct the Federal Trade Commission to issue regulations that establish standards for a do-not-track mechanism and obligate online companies to accommodate that consumer preference.

This bill is necessary because American privacy is by now a form of surveillance as they conduct their affairs online. Whether it is a mother at home on a computer researching the symptoms of her sick child, a man exploring how to change jobs or buy a home, or a teenager using her smartphone while riding the subway, online companies are collecting vast amounts of information about all of this activity, often surreptitiously and with consumers completely unaware. There are a vast array of companies collecting this information in numerous ways: third-party advertising networks place "cookies" on computer web-browsers to keep track of the websites consumers have visited; analytic and marketing companies identify individual consumer preference. As a member of the unique configuration, or "fingerprint," of web-browsers; and software applications installed on mobile devices, colloquially known as "apps", that collect, use, and disseminate information about consumer location, contact information, and a myriad of other personal information. This information is being stored on computer servers around the world and is used for a variety of purposes, ranging
from online behavioral advertising to internal analytics to the creation of personal dossiers by data brokers who build comprehensive profiles on individual Americans.

My bill will empower consumers, if they choose to do so, by giving them the means to prohibit the collection of their information from the start. Consumers will be able to notify companies who are collecting their personal information that they want these companies to stop. If online companies fail to obey this request, they will face stiff penalties from the Federal Trade Commission or state Attorneys General.

The strength of this bill is its simplicity. Congress has long grappled with consumer privacy through the lens of “notice and consent.” That is, for over a decade in the Senate Commerce Committee, which I chair, we have tried to determine how online companies can provide clear and conspicuous notice to consumer privacy practices and their commercial information practices; and once this notice has been given, further determine how consumers can either opt-in or opt-out of those information collection practices.

The problem has proven complicated and often unworkable: privacy policies are often long and tedious, replete with technical legalese. These notices don’t work well on a full screen computer, much less on a small hand-held mobile device, and consumers often ignore them. Further, consumer consent has been dependent on the type of information that is being collected and who is doing the collection. For instance, should a third-party advertising network be subject to the same restrictions as the Washington Post website that hosts the ad network? Should Apple be allowed to collect information about a person’s iPhone, but an application be prohibited? Should companies collect between particularly sensitive information—such as health or political activities—and more innocuous information such as which sports teams someone may like?

My Do-Not-Track bill avoids all of these messy policy considerations and provides consumers with the opportunity to take advantage of an easy mechanism that says “no” to anyone and everyone collecting their information, Period.

I think it is worth noting that the FTC has recognized the utility of do-not-track in its December 2010 report on consumer privacy. The report states: “Such a mechanism would ensure that consumers would not have to exercise choices on a company-by-company or industry-by-industry basis, and that such choices would be persistent. It should also address some of the concerns with the existing browser mechanisms, by being more clear, easy-to-locate, and effective, and by conveying directly the user’s choices to opt out of tracking.” Indeed, the private sector has similarly recognized the utility of do-not-track. Mozilla’s popular web browser, Firefox, and Apple’s web browser, Safari, already allow consumers to affirmatively declare a do-not-track preference to websites. The problem is that online companies have no legal obligation to honor this request. My bill fixes that.

Let me say a few words about what this bill does not do. My bill would not “break the Internet.” I am sure that we will hear such hyperbole in opposition to the bill. The truth is that my bill makes all of the necessary accommodations for online companies to use information as is necessary to allow companies to provide the content and services consumers have grown to expect and enjoy. For instance, websites will still be able to use IP addresses to deliver content, and will be allowed to collect data to perform internal analytics and improve performance. Applications will still be able to use a phone’s Unique Device Identifier—also known as UDID—to perform their function. However, when consumers state that they do not want to be tracked, online services will no longer be allowed to collect and use this information for any extraneous purpose, and they will be obligated to delete such information once it is no longer needed to provide the service requested. Furthermore, my bill allows online companies to collect and maintain consumer information when it has been voluntarily provided by the consumer. Consumers also can allow companies they trust to collect and use their information by providing specific consent that overrides a general do-not-track preference.

As such, my bill empowers consumers to stop online companies from collecting and using their information, but also preserves the ability of those online companies to conduct their business and deliver the content and services consumers expect. The bill provides the FTC with rulemaking authority to use its expertise to protect the privacy interests of consumers while addressing the legitimate needs of industry.

To be clear, my bill is not a comprehensive consumer privacy bill, nor is it meant to be. Do-not-track is just one aspect to consumer privacy albeit an important one. Other Members of the Commerce Committee are actively engaged in protecting consumer privacy interests. I want to commend Senator KERRY, who is a senior Member of the Commerce Committee, and Senator MCCAIN for their efforts and for introducing legislation designed to establish a broad privacy framework. I also commend Senator PRYOR’s dedication to privacy protection and the vigorous oversight of his Subcommittee. I expect consumer privacy to remain a focus of the Congress and the Members of the Commerce Committee with more legislation being introduced in the coming weeks and months.

In the end, my Do-Not-Track bill is a part of the ongoing discussion on consumer privacy in Congress. It is simple, yet powerful. It allows consumers, if they choose—and I should emphasize that many will not make such a choice—to stop the constant, almost mind-boggling sweep of online companies that are collecting vast amounts of consumer information. It prohibits those lurking in the cyber-shadows from surreptitiously profiting off of the personal, private information of ordinary Americans. I look forward to working with my colleagues on this and other privacy legislative efforts in the Commerce Committee and on the Senate floor.

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

S. 913

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 “Do-Not-Track Online Act of 2011.”

SEC. 2. REGULATIONS RELATING TO “DO-NOT-TRACK” MECHANISMS.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Federal Trade Commission shall promulgate—

(1) regulations that establish standards for the implementation of a mechanism by which an individual can simply and easily indicate whether the individual prefers to have personal information collected by providers of online services, including by providers of mobile applications and services; and

(2) rules that prohibit, except as provided in subsection (b), such providers from collecting personal information on individuals who have expressed, via a mechanism that meets the standards promulgated under paragraph (1), a preference not to have such information collected.

(b) EXCEPTION.—The rules promulgated under paragraph (2) of subsection (a) shall allow for the collection and use of personal information on an individual, as described in such paragraph, notwithstanding the expressed preference of the individual via a mechanism that meets the standards promulgated under paragraph (1) of such section, to the extent—

(1) necessary to provide a service requested by the individual, including with respect to such service, basic functionality; and

(2) individual—

(A) receives clear, conspicuous, and accurate notice on the collection and use of such information; and

(B) affirmatively consents to such collection and use.

(c) FACTORS.—In promulgating standards and rules under subsection (a), the Federal Trade Commission shall consider and take into account the following:

(1) The appropriate scope of such standards and rules, including the conduct to which such rules shall apply and the persons required to comply with such rules.

(2) The technical feasibility and costs of—

(A) implementing mechanisms that would meet such standards; and

(B) complying with such rules.

(3) Mechanisms that—

(A) have been developed or used before the date of the enactment of this Act; and

(B) are for individuals to indicate simply and easily whether the individuals prefer to
have personal information collected by providers of online services, including by providers of mobile applications and services.

(4) How mechanisms that meet such standards shall be publicized and offered to individuals.

(5) Whether and how information can be collected and used on an anonymous basis so that it is not identifiable.

(6) The standards under which personal information may be collected and used, subject to the anonymization or deletion requirements of subsection (b)(1).

(A) to fulfill the basic functionality and effectiveness of an online service, including a mobile application or service;

(B) to provide the content or services requested by individuals who have otherwise expressed, via a mechanism that meets the standards promulgated under subsection (a)(1), preference not to have personal information collected; and

(C) for such other purposes as the Commission determines substantially facilitates the functionality and effectiveness of an online service, or mobile application or service, in a manner that does not undermine an individual’s preference, expressed via such mechanism, not to have personal information collected.

(d) RULEMAKING.—The Federal Trade Commission shall promulgate the standards and rules required by subsection (a) in accordance with section 553 of title 5, United States Code.

SEC. 3. ENFORCEMENT OF "DO-NOT-TRACK" MECHANISMS.

(a) ENFORCEMENT BY FEDERAL TRADE COMMISSION.

(1) UNFAIR OR DECEPTIVE ACTS OR PRACTICES.—A violation of a rule promulgated under section 2(a)(2) shall be treated as an unfair and deceptive act or practice in violation of a regulation under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)) regarding unfair or deceptive acts or practices.

(2) POWERS OF COMMISSION.

(A) IN GENERAL.—Except as provided in subparagraph (C), the Federal Trade Commission shall enforce this Act in the same manner, by the same means, and with the same jurisdiction, powers, and duties, as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this Act.

(B) PRIVILEGES AND IMMUNITIES.—Except as provided in subparagraph (C), any person who violates this Act shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(C) ENFORCEMENT UNDER STATUTES.—The Federal Trade Commission shall enforce this Act with respect to an organization that is not organized to carry on business for its own profit or that of its members as if such organization were a person over which the Commission has authority pursuant to section 5(a)(2) of the Federal Trade Commission Act (15 U.S.C. 45(a)(2)).

(b) ENFORCEMENT BY STATES.

(1) IN GENERAL.—In any case in which the attorney general of a State has reason to believe that a violation of any civil or criminal law of the State has been or is threatened or adversely affected by the engagement of any person subject to a rule promulgated under section 2(a)(2) and the person violates the rule, the attorney general of the State may, as parens patriae, bring a civil action on behalf of the residents of the State in an appropriate district court of the United States—

(A) to enjoin further violation of such rule by such person;

(B) to compel compliance with such rule;

(C) to obtain damages, restitution, or other compensation on behalf of such residents;

(D) to obtain such other relief as the court considers appropriate;

(E) to obtain civil penalties in the amount determined under paragraph (2).

(2) CIVIL PENALTIES.—

(A) CALCULATION.—Subject to subparagraph (B), for purposes of imposing a civil penalty under paragraph (1) against a person who violates a rule promulgated under section 2(a)(2), the amount determined under this paragraph is the amount calculated by multiplying the number of days that the person is in violation of the rule by an amount not greater than $16,000.

(B) MAXIMUM TOTAL LIABILITY.—The total amount of civil penalties that may be imposed with respect to a person that violates a rule promulgated under section 2(a)(2) shall not exceed $15,000,000 for all civil actions brought against such person under paragraph (1) for such violation.

(c) ADJUSTMENT FOR INFLATION.—Beginning on the date on which the Bureau of Labor Statistics first publishes the Consumer Price Index for all Urban Consumers for the family of four, and annually thereafter, the amounts specified in subparagraphs (A) and (B) shall be increased by the percentage increase in the Consumer Price Index published on that date from the Consumer Price Index published the previous year.

(d) RIGHTS OF FEDERAL TRADE COMMISSION.

(1) IN GENERAL.—Except as provided in clause (iii), the attorney general of a State shall notify the Federal Trade Commission in writing that the attorney general intends to bring a civil action under paragraph (1) before initiating the civil action.

(iii) EXCEPTION.—If it is not feasible for the attorney general of a State to provide the notice required by clause (i) before initiating a civil action under paragraph (1), the attorney general shall notify the Federal Trade Commission immediately upon instituting the civil action.

(e) INTERVENTION BY FEDERAL TRADE COMMISSION.

(1) THE FEDERAL TRADE COMMISSION MAY—

(A) intervene in any civil action brought by the attorney general of a State under paragraph (1); and

(B) upon intervening—

(i) be heard on all matters arising in the civil action; and

(ii) file petitions for appeal of a decision in the civil action.

(f) EXCEPTION.—If it is not feasible for the attorney general of a State to provide the notice required by clause (i) before initiating a civil action under paragraph (1), the attorney general shall notify the Federal Trade Commission immediately upon instituting the civil action.

(g) INVESTIGATORY POWERS.—Nothing in this subsection may be construed to prevent the attorney general of a State from exercising the powers conferred on the attorney general by the laws of the State to conduct investigations, to administer oaths or affirmations, or to compel the attendance of witnesses or the production of documentary or other evidence.

(h) PREEMPTIVE ACTION BY FEDERAL TRADE COMMISSION.

(1) THE FEDERAL TRADE COMMISSION MAY—

(A) impose civil penalties against a person who violates a rule promulgated under section 2(a)(2); and

(B) enjoin in a practice that violates a rule promulgated under section 2(a)(2) by any person that is not in compliance with the rule.

(i) ACTIONS BY OTHER STATE OFFICIALS.

(A) IN GENERAL.—In addition to civil actions brought by attorneys general under paragraph (1), any other officer of a State who is authorized by the State to do so may bring a civil action under paragraph (1), subject to the same requirements and limitations that apply under this subsection to civil actions brought by attorneys general.

(B) SAVINGS PROVISION.—Nothing in this subsection may be construed to prohibit an agency or official of the State from investigating or continuing any proceeding in a court of the State for a violation of any civil or criminal law of the State.

SEC. 4. BIENNIAL REVIEW AND ASSESSMENT.

Not later than 2 years after the effective date of the regulations initially promulgated under section 2, the Federal Trade Commission shall—

(1) review the implementation of this Act;

(2) assess the effectiveness of such regulations, including how such regulations define the term "personal information" as such term is used in section 2;

(3) assess the effect of such regulations on online commerce; and

(4) submit to Congress a report on the results of the review and assessments required by this section.

By Mr. BEGICH (for himself, Mr. GRASSLEY, and Mr. TESTER):

S. 914. A bill to amend title 38, United States Code, to authorize the waiver of the collection of copayments for telehealth and telemedicine visits by veterans, and for other purposes; to the Committee on Veterans’ Affairs.

Mr. BEGICH. Mr. President, today I rise to introduce legislation to amend title 38, related to this Nation’s obligation to provide benefits to our veterans. Specifically, the bill I introduce today with my distinguished colleagues, Senator Grassley of Iowa and Senator Tester of Montana, will waive collection of copayments for telehealth and telemedicine visits for veterans.

More than 42,000 veterans are receiving care in their homes, enrolled in the Veterans Health Administration’s, VHA. Telemedicine program as one form of treatment. In Alaska, as of March 2010, there were 226 veterans receiving this service. Just over a 100 of these live in rural Alaska.

Home telehealth programs provide needed care for the 2–3 percent of veterans who account for 30 percent or more of agency resources. These men and women are frequent clinic attenders and often require urgent hospital admissions. VHA programs have demonstrated reduced hospital admissions and clinic and emergency room
visits, and contribute to an improved quality of life for our veterans. 

For no group of veterans is this service more important than for those who live in rural and remote America. Telemedicine has become an increasingly integral component in addressing the need for medical care in rural and remote areas, and is critical to ensuring they have proper access to health care, especially in rural areas.

While the VHA is saving taxpayers money by using telemedicine, currently all telemedicine visits require veterans receiving these treatments to make copayments. My legislation would implement a simple fix. It would waive the required copayments—sometimes up to $50 per visit—to lessen the burden on our veterans, who have sacrificed in service to our great nation. I believe that waiving these fees may encourage more veterans to take advantage of VHA’s telehealth programs, which can be a godsend for rural veterans with few other viable options.

For rural veterans in Alaska, who have to travel by small float planes or boats or even snow machines to get to the nearest clinic for monitoring of their diabetes, high blood pressure, or other chronic conditions, Congress can go a long way in repaying this Nation’s debt to our veterans by passing this legislation.

The VHA plans to expand Home Telehealth for weight management, substance abuse, mild traumatic brain injury, depression, and other conditions, as well as enabling veterans to use mobile devices to access care. I would hate to see these vital services go unused by veterans living in remote villages and communities because of the cost of copayments. But, this is not primarily about saving veterans money. This is about the federal government doing what is good for our veterans. The monetary benefits for veterans are a plus.

Basically, this legislation will amend title 38 to authorize the waiver of the collection of copayments for telehealth and telemedicine visits of veterans by giving the Secretary the authority to do so.

In closing, I must say it is an honor for me to serve as a member of the Senate Veterans’ Affairs Committee. I feel very privileged to be involved with policy formation that helps our veterans. I appreciate my distinguished colleagues on the committee. 

This is a bipartisan bill to address an issue with no partisan connection. I urge my colleagues to join Senators Grassley, Tester, and me in cosponsoring this legislation, and I urge expeditious consideration of the legislation to address a growing need for our rural veterans.

By Mr. BINGAMAN.

S. 916. A bill to facilitate appropriate oil and gas development on Federal land and waters, to limit dependence of the United States on foreign sources of oil and gas, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. BINGAMAN. Mr. President, today I am introducing the Oil and Gas Facilitation Act of 2011. This is a bill to facilitate appropriate oil and gas development on Federal land and waters, and to limit dependence of the United States on foreign sources of energy.

For example, its provisions will increase our understanding of our oil and gas resources, coordinate interagency activities on oil and gas development, and facilitate transportation of Alaskan oil and natural gas.

Its provisions are drawn from a bill reported out of the Committee on Energy and Natural Resources on a bipartisan basis in the last Congress. I look forward to working with my colleagues on both sides of the aisle as we move forward on these issues in this Congress.

Mr. President, I ask unanimous consent that the text of this 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. 916

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 “Oil and Gas Facilitation Act of 2011”.

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

Sec. 1. Short title; table of contents.
Sec. 2. Definition of Secretary.

TITLE I—OIL AND GAS LEASING

Sec. 101. Extension of Oil and Gas Permit Processing Improvement Fund.
Sec. 102. Facilitation of coproduction of geothermal energy on oil and gas leases.

TITLE II—OUTER CONTINENTAL SHELF

Sec. 201. Comprehensive inventory of outer Continental Shelf resources. 
Sec. 202. Alaska OCS permit processing coordination and processing of oil and gas inspections.

Sec. 2. Definition of Secretary.

In this Act, the term “Secretary” means the Secretary of the Interior.

TITLE I—OIL AND GAS LEASING

Sec. 101. Extension of Oil and Gas Permit Processing Improvement Fund.

S. 916 is amended by adding at the end the following:

“(4) AUTHORIZATION OF APPROPRIATIONS.—

There is authorized to be appropriated from the Fund, or to the extent adequate funds in the Fund are not available from miscellaneous receipts of the Treasury, for coordination and processing of oil and gas use authorizations and for oil and gas inspection and enforcement on onshore Federal land under the jurisdiction of the Pilot Project offices described in section 356(d) of the Energy Policy Act of 2005 (42 U.S.C. 15924(d)) for each of fiscal years 2011 through 2020, to remain available until expended.”.

SEC. 102. FACILITATION OF COPRODUCTION OF GEOTHERMAL ENERGY ON OIL AND GAS LEASES.

Section 4(b) of the Geothermal Steam Act of 1970 (30 U.S.C. 1003(b)) is amended by adding at the end the following:

“(4) LAND SUBJECT TO OIL AND GAS LEASE.—Land under an oil and gas lease issued pursuant to the Mineral Leasing Act (30 U.S.C. 181 et seq.) or the Outer Continental Shelf Lands Act (30 U.S.C. 1531 et seq.) that is subject to an approved application for permit to drill and from which oil and gas production is occurring may be available for leasing under subsection (c) by the holder of the oil and gas lease—

“(A) on a determination that—

“(i) geothermal energy will be produced from a well producing or capable of producing oil and gas; and

“(ii) the public interest will be served by the issuance of such a lease; and

“(B) in order to provide for the coproduction of geothermal energy with oil and gas.”.

TITLE II—OUTER CONTINENTAL SHELF

Sec. 201. Comprehensive inventory of outer Continental Shelf resources.

(a) IN GENERAL.—Section 357 of the Energy Policy Act of 2005 (42 U.S.C. 15912) is amended—

(1) in subsection (a)—

(A) by striking the first sentence of the subparagraph preceding paragraph (1) and inserting the following: “The Secretary shall conduct a comprehensive inventory of oil and natural gas (including executing or otherwise facilitating seismic studies) and prepare a summary (the latter prepared with the assistance of, and based on information provided by, the heads of appropriate Federal agencies) of the information obtained under paragraph (3), for the waters of the United States Outer Continental Shelf (referred to in this section as the ‘OCS’).”;

(B) in paragraph (2)—

(i) by striking “3-D” and inserting “2-D and 3-D”;

(ii) by adding “and” at the end; and

(C) by striking paragraphs (3) through (5) and inserting the following:

use existing infrastructure and mapping of marine resources undertaken by the National Oceanographic and Atmospheric Administration and with the assistance of and based on information provided by the Department of Defense and other Federal and State agencies possessing relevant data, and use any available data regarding alternative energy potential, nautical charting, aquaculture uses, recreational uses, habitat, conservation, and military uses.”; and

(2) by striking subsection (b) and inserting the following:

“(b) IMPLEMENTATION.—The Secretary shall carry out the inventory and analysis under subsection (a) in 3 phases, with priority given to all or part of applicable planning areas of the outer Continental Shelf—

“(1) estimated to have the greatest potential for energy development in barrel of oil equivalent; and

“(2) outside of any leased area or area scheduled for leasing prior to calendar year 2011 under any outer Continental Shelf 5-year leasing program or plan under section 18 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344).
"(c) PLAN.—

"(1) IN GENERAL.—Not later than 90 days after the date of enactment of this paragraph, 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 a report that provides a plan for executing or otherwise the seismic inventory examination required under this section, including an estimate of the costs to complete the seismic inventory by region and environmental and permitting activities to facilitate expeditious completion.

"(2) FIRST PHASE.—Not later than 2 years after the date of enactment of this paragraph, the Secretary shall submit to Congress a report describing the results of the first phase of the inventory and analysis under subsection (a).

"(3) SUBSEQUENT PHASES.—Not later than 2 years after the date on which the report is submitted under paragraph (2) and 2 years thereafter, the Secretary shall submit to Congress a report describing the results of the second and third phases, respectively, of the inventory and analysis under subsection (a).

"(d) PUBLIC AVAILABILITY.—A report submitted under paragraph (2) or (3) shall be—

"(A) made publicly available; and

"(B) updated not less frequently than once every 5 years.

"(b) RELATIONSHIP TO 5-YEAR PROGRAM.—The requirement that the Secretary carry out the purposes and tasks described by the amendment made by subsection (a) shall not be considered to require, authorize, or provide a basis or justification for delay by the Secretary or any other agency of the issuance of any Outer Continental Shelf leasing program or amendment to the program under section 18 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), or any lease sale pursuant to that section.

"(c) PERMITS.—Nothing in this section or an amendment made by this section—

"(1) precludes the issuance by the Secretary of a permit to conduct geological and geophysical exploration of the outer Continental Shelf in accordance with the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) and other applicable law; or

"(2) otherwise alters the requirements of applicable law with respect to the issuance of such a permit or any other activities undertaken by the Secretary in connection with the inventory.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, to be available until expended without fiscal year limitation—

1. $100,000,000 for each of fiscal years 2012 through 2017; and

2. $50,000,000 for each of fiscal years 2018 through 2022.

SEC. 202. ALASKA OCS PERMIT PROCESSING CO-ORDINATION OFFICE.

(a) ESTABLISHMENT.—The Secretary shall establish a regional joint outer Continental Shelf advance processing office for the Alaska outer Continental Shelf region.

"(b) MEMORANDUM OF UNDERSTANDING.—

"(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall enter into a memorandum of understanding for the purposes of carrying out this section with—

"(A) the Secretary of Commerce;

"(B) the Chief of Engineers;

"(C) the Administrator of the Environmental Protection Agency; and

"(D) any other Federal agency that may have a role in permitting activities.

"(2) STATE PARTICIPATION.—The Secretary shall seek the signature of the Governor of Alaska as a signatory to the memorandum of understanding.

"(c) DESIGNATION OF QUALIFIED STAFF.—

"(1) IN GENERAL.—Not later than 30 days after the date of the signing of the memorandum of understanding under subsection (b), each party shall, if appropriate, assign to the office described in subsection (a) an employee who has expertise in the regulatory issues administered by the office in which permit applications are being processed relating to leasing and the permitting of oil and gas activities on the outer Continental Shelf.

"(2) DUTIES.—An employee assigned under paragraph (1) shall—

"(A) not later than 90 days after the date of assignment, report to the office described in subsection (a); and

"(B) be responsible for all issues relating to the jurisdiction of the home office or agency of the employee; and

"(C) participate as part of the applicable team of personnel working on proposed oil and gas leasing and permitting, including planning and environmental analyses.

"(d) TRANSFER OF FUNDS.—For the purposes of coordination and processing of oil and gas use authorizations for the Alaska outer Continental Shelf in accordance with the Outer Continental Shelf Lands Act (43 U.S.C. 1651 et seq.), the Secretary may authorize the expenditure or transfer of such funds as are necessary to—

"(1) the Secretary of Commerce;

"(2) the Chief of Engineers;

"(3) the Administrator of the Environmental Protection Agency;

"(4) any other Federal agency having a role in permitting activities; and

"(5) the State of Alaska.

"(e) SAVINGS PROVISION.—Nothing in this section affects—

"(1) the operation of any Federal or State law; or

"(2) any delegation of authority made by the head of a Federal agency for employees of the agency to perform functions of the environmental office.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $2,000,000 for each of fiscal years 2012 through 2022, to remain available until expended.

SEC. 203. PHASE-OUT OF MANDATORY OUTER CONTINENTAL SHELF DEEP WATER AND DEEP GAS ROYALTY RELIEF FOR FUTURE LEASES.

"(a) IN GENERAL.—Sections 344 and 345 of Title III of the Energy Policy Act of 2005 (42 U.S.C. 15944 and 15945) are repealed.

"(b) ADMINISTRATION.—The Secretary shall be responsible for the required relief in the lease sale terms beginning with the first lease sale held on or after the date of enactment of this Act for which a final notice of sale has been published.

TITLE III—MISCELLANEOUS

SEC. 301. FACILITATION OF ALASKA NATURAL GAS PIPELINE.

"(a) IN GENERAL.—Section 116 of the Alaska Natural Gas Pipeline Act (15 U.S.C. 720n) is amended—

"(1) in subsection (a)(3)—

"(A) in the first sentence, by inserting before the period the following: "except that a holder of a certificate may request the Secretary to extend the period to issue Federal guarantee instruments for not more than 180 days following the date of resolution of any reopening, contest, or other proceeding relating to the certificate"; and

"(B) in the second sentence, by inserting before the period the following: "or connecting to pipeline infrastructure capable of delivering commercially economic quantities of natural gas to the continental United States."

"(2) in subsection (b)—

"(A) by striking paragraph (2);

"(B) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively; and

"(C) in paragraph (2) (as so redesignated), by striking "An eligible " and inserting "A"; and

"(d) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—Except as provided in subsection (b), no part of the trans-Alaska oil pipeline system shall be considered to be a district, site, building, structure, or object for purposes of sections 27 and 28 of the National Historic Preservation Act (16 U.S.C. 470f), regardless of whether all or part of the trans-Alaska oil pipeline system may otherwise be listed on, or eligible for listing on, the National Register of Historic Places.

"(2) INDIVIDUAL ELEMENTS.—

"(A) IN GENERAL.—Subsection (c), the Secretary of the Interior may identify up to 3 sections of the trans-Alaska oil pipeline system that possess national or exceptional historic significance and that should remain after the pipeline is no longer used for the purpose of oil transportation.

"(3) HISTORIC SITE.—Any sections identified under paragraph (1) shall be considered to be a historic site.

"(4) VIEWS.—In making the identification under this subsection, the Secretary shall consider the views of—

"(A) the owners of the pipeline;

"(B) the State Historic Preservation Officer;

"(C) the Advisory Council on Historic Preservation; and

"(D) the Federal Coordinator for Alaska Natural Gas Transportation Projects.

"(e) CONSTRUCTION, MAINTENANCE, RESTORATION, AND REHABILITATION ACTIVITIES.—

"(1) IN GENERAL.—Subsection (d) does not prohibit the owners of the trans-Alaska oil pipeline system from carrying out construction, maintenance, restoration, or rehabilitation activities on or for a section of the system described in subsection (b).

"(f) PERMITS.—The Secretary may issue right-of-way permits for—

SEC. 302. EXEMPTION OF TRANS-ALASKA OIL PIPELINE SYSTEM FROM CERTAIN REQUIREMENTS.

The Trans-Alaska Pipeline Authorization Act ($3 U.S.C. 1651 et seq.) is amended by adding at the end the following:

"SEC. 208. EXEMPTION OF TRANS-ALASKA OIL PIPELINE SYSTEM FROM CERTAIN REQUIREMENTS.

"(a) IN GENERAL.—Nothing as provided in subsection (b), no part of the trans-Alaska oil pipeline system shall be considered to be a district, site, building, structure, or object for purposes of sections 27 and 28 of the National Historic Preservation Act (16 U.S.C. 470f), regardless of whether all or part of the trans-Alaska oil pipeline system may otherwise be listed on, or eligible for listing on, the National Register of Historic Places.

"(b) INDIVIDUAL ELEMENTS.—

"(1) IN GENERAL.—Subsection (c), the Secretary of the Interior may identify up to 3 sections of the trans-Alaska oil pipeline system that possess national or exceptional historic significance and that should remain after the pipeline is no longer used for the purpose of oil transportation.

"(2) HISTORIC SITE.—Any sections identified under paragraph (1) shall be considered to be a historic site.

"(3) VIEWS.—In making the identification under this subsection, the Secretary shall consider the views of—

"(A) the owners of the pipeline;

"(B) the State Historic Preservation Officer;

"(C) the Advisory Council on Historic Preservation; and

"(D) the Federal Coordinator for Alaska Natural Gas Transportation Projects.

"(c) CONSTRUCTION, MAINTENANCE, RESTORATION, AND REHABILITATION ACTIVITIES.—

"(1) IN GENERAL.—The term "appurtenance" includes cathodic protection or test stations, valves, signage, and buried communication and electric cables relating to the operation of high-pressure natural gas transmission.

"(2) EXCLUSIONS.—The term "appurtenance" does not include compressor stations.

"(3) PARK.—The term "Park" means the Denali National Park and Preserve in the State of Alaska.

"(4) PERMIT.—The Secretary may issue right-of-way permits for—
(a) A bill to amend the Outer Continental Shelf Lands Act to reform the management of energy and mineral resources on the Outer Continental Shelf, and for other purposes: to the Committee on Energy and Natural Resources.

Mr. BINGAMAN. Mr. President, today I am introducing the Outer Continental Shelf Reform Act of 2011. This is a bill intended to reform the management of energy resources on the Outer Continental Shelf, and to create a culture of excellence for the industry and the regulatory agency going forward.

Following the tragic Deepwater Horizon oil rig accident last year, we have learned of the changes that need to be made by the industry and the regulatory agency to ensure that accidents like this never happen again. In addition, we should do more, and create a system for the management of offshore energy development that is a model for the world.

This bill is intended to put in place the changes that can achieve these goals. It is identical to a bill reported unanimously by the Committee on Energy and Natural Resources in the last Congress. In the intervening time since the committee’s action, there have been developments and new information that may indicate the need to update or change some parts of the bill. But, as we begin to work on this issue again through the committee, I believe that it is sensible to start with last year’s bill. I look forward to working with my colleagues on both sides of the aisle to address these important issues.

Mr. President, I ask unanimous consent that the text of this 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 “Outer Continental Shelf Reform 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. 2. Purposes.
Sec. 3. Definitions.
Sec. 4. National policy for the outer Continental Shelf.
Sec. 5. Structural reform of outer Continental Shelf program management.
Sec. 6. Safety, environmental, and financial reform of the Outer Continental Shelf Lands Act.
Sec. 7. Study on the effect of the moratoria on new deepwater drilling in the Gulf of Mexico on employment and small businesses.
Sec. 8. Reform of other law.
Sec. 9. Safer energy and production.
Sec. 10. National Commission on Outer Continental Shelf Oil Spill Prevention.
Sec. 11. Classification of offshore systems.
Sec. 12. Savings provisions.
Sec. 13. Budgetary effects.

SEC. 2. PURPOSES.
The purposes of this Act are—

(1) to rationalize and reform the responsibilities of the Secretary of the Interior with respect to the management of the outer Continental Shelf to improve the management, oversight, accountability, safety, and environmental protection of all the resources on the outer Continental Shelf;

(2) to provide for development and enforcement of safety and environmental laws (including regulations) governing—

(A) energy development and mineral extraction activities on the outer Continental Shelf; and

(B) related offshore activities; and

(3) to ensure a fair return to the taxpayer from, and independent management of, royalty and revenue collection and disbursement activities from mineral and energy resources.

SEC. 3. DEFINITIONS.
In this Act:

(1) DEPARTMENT.—The term “Department” means the Department of the Interior.

(2) OUTER CONTINENTAL SHELF.—The term “outer Continental Shelf” means the Secretary’s action.

(3) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

SEC. 4. NATIONAL POLICY FOR THE OUTER CONTINENTAL SHELF.
Section 3 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331) is amended—

(1) by striking the term “Department” means the Department of the Interior.

(2) by striking the term “Secretary” means the Secretary of the Interior.

(3) in paragraph (3), by striking “(B) the outer Continental Shelf is a vital national resource reserve held by the Federal Government for the public, which should be managed in a manner that—” and inserting—

“(A) recognizes the need of the United States for domestic sources of energy, food, minerals, and other resources;

(B) minimizes the potential impacts of development of those resources on the marine and coastal environment and on human health and safety; and

(C) acknowledges the long-term economic value to the balanced and orderly management of those resources that safeguards the environment and re-
"(4) QUALIFICATIONS.—The Director shall be a person who, by reason of professional background and demonstrated ability and experience, is specially qualified to carry out the duties and authorities described in this subsection.

"(c) OCS SAFETY AND ENVIRONMENTAL ADVISORY BOARD.—

"(1) ESTABLISHMENT.—The Secretary shall establish, under the Federal Advisory Committee Act (5 U.S.C. App.), an Outer Continental Shelf Safety and Environmental Advisory Board (referred to in this subsection as the ‘Board’), to provide the Secretary and the Directors of the bureau established under this section with independent peer-review of, advice on, safe and environmentally compliant energy and mineral resource exploration, development, and production activities.

"(2) MEMBERSHIP.—

"(A) SIZE.—

"(i) IN GENERAL.—The Board shall consist of not more than 12 members, chosen to reflect a range of expertise in scientific, engineering, management, and other disciplines related to safe and environmentally compliant energy and mineral resource exploration, development, and production activities.

"(ii) CONFORMING AMENDMENT.—Section 5316 of title 5, United States Code, is amended by striking ‘Director, Bureau of Minerals, Department of the Interior’ and inserting the following:

‘‘Bureau Directors, Department of the Interior’’.

"(B) REQUIREMENTS.—In exercising the authority granted under subparagraph (A), the Secretary shall take into account:

"(i) Critical scientific, engineering, or critical technical personnel into the competitive service, as of-officials or employees of any of the organizations established under this section.

"(C) LIMITATION ON TERM.—The term of employment of any individual hired under subparagraph (A) may not exceed 4 years.

"(3) MEETINGS.—The Board shall—

"(A) meet not less than 3 times per year; and

"(B) at least once per year, shall host a public forum to review and assess the overall safety and environmental performance of outer Continental Shelf energy and mineral resource activities.

"(4) REPORTS.—Reports of the Board shall—

"(A) be submitted to Congress; and

"(B) be made available to the public in an electronically accessible form.

"(5) TRAVEL EXPENSES.—Members of the Board, other than full-time employees of the Federal Government, while attending a meeting of the Board or while otherwise serving at the request of the Secretary or the Director while serving away from their homes or places of business, shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Federal Government serving without pay.

"(d) SPECIAL PERSONNEL AUTHORITY.—

"(1) DIRECT HIRING AUTHORITY FOR CRITICAL PERSONNEL.—

"(A) IN GENERAL.—Notwithstanding sections 3104, 3309, and 3309 through 3318 of title 5, United States Code, the Secretary may, upon a determination that there is a severe shortage of candidates or a critical hiring need for particular positions, recruit and directly appoint highly qualified accountants, scientists, engineers, or critical technical personnel into the competitive service, as of-officers or employees of any of the organizations established under this section.

"(B) REQUIREMENTS.—In exercising the authority granted under subparagraph (A), the Secretary shall ensure that any action taken by the Secretary is consistent with the merit principles of chapter 23 of title 5, United States Code; and

"(ii) complies with the public notice requirements of section 3327 of title 5, United States Code.

"(2) CRITICAL PAY AUTHORITY.—

"(A) IN GENERAL.—Notwithstanding section 5377 of title 5, United States Code, and without regard to the provisions of that title governing competitive service or the Senior Executive Service and chapters 51 and 53 of that title (relating to classification and pay rates), the Secretary may by appointment of, and shall appoint individuals to critical positions needed to carry out the functions of any of the organizational units established under this section, in the Secretary certifies that—

"(i) the positions;

"(ii) require expertise of an extremely high level;

"(III) any of the organizational units established in this section would not successfully accomplish an important mission without such an individual;

"(iii) exercise of the authority is necessary to recruit an individual exceptionally well qualified for the position.

"(B) LIMITATIONS.—The authority granted under subparagraph (A) shall be subject to the following conditions:

"(i) The number of critical positions authorized by subparagraph (A) may not exceed 40 at any 1 time.

"(ii) The term of an appointment under subparagraph (A) shall not exceed 4 years.

"(iii) An individual appointed under subparagraph (A) may not be an employee of the Department of the Interior during the 2-year period prior to the date of appointment.

"(iv) Total annual compensation for an individual appointed under subparagraph (A) may not exceed the highest total annual compensation payable at the rate determined under section 104 of title 5, United States Code.

"(v) An individual appointed under subparagraph (A) may not be considered to be an employee for purposes of subchapter II of chapter 75 of title 5, United States Code.

"(C) OCS SAFETY AND ENVIRONMENTAL ADVISORY BOARD.—

"(1) REQUIREMENTS.—In exercising the authority granted under section 5337 of title 5, United States Code, the Secretary shall—

"(A) review the minimum financial responsibility requirements for mineral leases or oil and gas leases under subsection (a)(11); and

"(B) adjust for inflation based on the Consumer Price Index for all Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor, and recommend to Congress any further changes to existing financial responsibility requirements necessary to permit lessees to fulfill all obligations under this Act or the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.).

"(2) REPORTS.—The Secretary shall submit to the appropriate committees of Congress reports on the financial responsibility requirements established under this section, and any changes to such requirements, not less than once each year.

"(3) ROYALTY RATES.—

"(A) IN GENERAL.—Not later than 1 year after the date of enactment of this section and every 4 years thereafter, the Secretary shall—

"(i) review the minimum financial responsibility requirements for mineral leases or oil and gas leases under subsection (a)(11); and

"(ii) adjust for inflation based on the Consumer Price Index for all Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor, and recommend to Congress any further changes to the financial responsibility requirements necessary to permit lessees to fulfill all obligations under this Act or the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.).

"(3) ROYALTY RATES.—

"(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and every 4 years thereafter, the Secretary shall—

"(i) review the minimum financial responsibility requirements for mineral leases or oil and gas leases under subsection (a)(11); and

"(ii) adjust for inflation based on the Consumer Price Index for all Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor, and recommend to Congress any further changes to the financial responsibility requirements necessary to permit lessees to fulfill all obligations under this Act or the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.).

"(B) REPORTS.—The Secretary shall submit to the appropriate committees of Congress reports on the financial responsibility requirements established under this section, and any changes to such requirements, not less than once each year.
“(ii) whether, in the view of the Secretary, the royalty and rental rates described in subparagraph (A) would yield a fair return to the public while promoting the production of oil and gas resources in a timely manner; and

“(iii) whether, based on the review, the Secretary intends to modify the royalty or rental rates described in subparagraph (A),

“(B) PUBLIC PARTICIPATION.—In carrying out a review and preparing a report under subparagraph (A), the Secretary shall provide to the public an opportunity to participate.

“(2) COMPARATIVE REVIEW OF FISCAL SYSTEM.—

“(A) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection and every 4 years thereafter, the Secretary in consultation with the Committee on Energy and Natural Resources of the Senate, shall carry out a comprehensive review of all components of the Federal offshore oil and gas fiscal system, including requirements for bonus bids, rental rates, royalties, oil and gas taxes, income taxes and other significant financial elements, and oil and gas fees;

“(B) INCLUSIONS.—The review shall include—

“(i) information and analyses comparing the offshore bonus bids, rents, royalties, taxes, and fees of the Federal Government to the bids, rents, royalties, taxes, and fees of other resource owners (including States and foreign countries); and

“(ii) an assessment of the overall offshore oil and gas fiscal system in the United States, as compared to foreign countries.

“(C) INDEPENDENT ADVISORY COMMITTEE.—In carrying out a review under this paragraph, the Secretary shall convene and seek the advice of an independent advisory committee comprised of oil and gas fiscal experts from States, Indian tribes, academia, the energy industry, and appropriate non-governmental organizations.

“(D) REPORT.—The Secretary shall prepare a report that contains—

“(i) the contents and results of the review carried out under this paragraph for the period covered by the report; and

“(ii) any recommendations of the Secretary and the Committee of the Senate based on the contents and results of the review.

“(E) COMBINED REPORT.—The Secretary may combine the reports required by paragraphs (1) and (2) into 1 report.

“(3) REPORT DEADLINE.—Not later than 30 days after the date on which the Secretary completes a review under this subsection, the Secretary shall submit copies of the report to—

“(A) the Committee on Energy and Natural Resources of the Senate;

“(B) the Committee on Finance of the Senate;

“(C) the Committee on Natural Resources of the House of Representatives; and

“(D) the Committee on Ways and Means of the House of Representatives.

“(d) LEASES, EASEMENTS, AND RIGHTS-OF-WAY.—Section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) is amended—

“(1) in subsection (c)—

“(A) in the fourth sentence of paragraph (1), by striking “within thirty days of its submission” and inserting “by the deadline described in paragraph (2);”;

“(B) by striking paragraph (3) and inserting the following:

“(3) MINIMUM REQUIREMENTS.—

“(A) A drilling plan submitted under this subsection shall include, in such degree of detail as the Secretary by regulation may require—

“(i) a comprehensive description and schedule of the exploration activities to be undertaken;

“(ii) a description of the equipment to be used for the exploration activities, including—

“(I) a description of the drilling unit;

“(II) a statement of the design and condition of major safety-related pieces of equipment;

“(III) a description of any new technology to be used; and

“(IV) a statement demonstrating that the equipment to be used meets the best available technology requirements under section 21(b);

“(iii) a map showing the location of each well to be drilled;

“(iv)(I) a scenario for the potential blowout of the well involving the highest expected volume of liquid hydrocarbons; and

“(II) a complete description of a response plan to control the blowout and manage the accompanying discharge of hydrocarbons, including—

“(aa) the technology and timeline for regaining control of the well; and

“(bb) the strategy, organization, and resources to be used to avoid harm to the environment and human health from hydrocarbons; and

“(v) any other information determined to be relevant by the Secretary.

“(B) DEEPWATER WELLS.—

“(i) IN GENERAL.—Before conducting exploration activities in water depths greater than 500 feet, the holder of a lease shall submit to the Secretary for approval a deepwater operations plan prepared by the lessee in accordance with this subparagraph.

“(II) TECHNOLOGY REQUIREMENTS.—A deepwater operations plan under this subparagraph shall be based on the best available technology to ensure safety in carrying out the exploration activity and the blowout response plan.

“(III) SYSTEMS ANALYSIS REQUIRED.—The Secretary may require—

“(AA) systems analysis for the exploration activity; and

“(BB) systems analysis for the blowout prevention technology; and

“(C) by adding at the end the following:

“(5) DEADLINE FOR APPROVAL.—

“(A) IN GENERAL.—In the case of a lease issued under a sale held after March 17, 2010, the deadline for approval of an exploration plan referred to in the fourth sentence of paragraph (1) is—

“(i) the date that is 90 days after the date on which the plan or the modifications to the plan are submitted; or

“(ii) the date that is not later than an additional 180 days after the deadline described in clause (i), if the Secretary makes a finding that additional time is necessary to complete any environmental, safety, or other reviews.

“(B) EXISTING LEASES.—In the case of a lease issued under a sale held on or before March 17, 2010, the Secretary, with the consent of the holder of the lease, may extend the deadline applicable to the lease for such an additional time as the Secretary determines is necessary to complete any environmental, safety, or other reviews.;

“(2) by redesignating subsections (e) through (h) as subsections (f) through (i), respectively; and

“(3) by striking subsection (d) and inserting the following:

“(D) DRILLING PERMITS.—

“(i) IN GENERAL.—The Secretary shall, by regulation, require that any lessee operating under an approved exploration plan obtain a permit—

“(I) before the lessee drills a well in accordance with the plan; and

“(II) before the lessee significantly modifies the well design originally approved by the Secretary.

“(2) ENGINEERING REVIEW REQUIRED.—The Secretary shall not approve any drilling permit under this section if the Secretary determines that the modification will not compromise the safety of the well system previously approved.

“(3) MODIFICATION REVIEW REQUIRED.—The Secretary may not approve any modification of a permit without a determination, after an additional engineering review, that the modification will not compromise the safety of the well system previously approved.

“(4) OPERATOR SAFETY AND ENVIRONMENTAL MANAGEMENT REQUIRED.—The Secretary shall—

“(A) require all operators to submit an operator safety and environmental management plan that—

“(i) is to be used by the operator during all well operations; and

“(ii) includes—

“(AA) a description of the expertise and experience level of crew members who will be present on the rig; and

“(BB) a designation of at least 2 environment and safety managers that—

“(I) are employees of the operator; and

“(II) would be present on the rig at all times this section is in effect;

“(III) have overall responsibility for the safety and environmental management of the well system and spill response plan; and

“(C) by adding at the end the following:

“(6) DISAPPROVAL OF EXPLORATION PLAN.—

“(i) IN GENERAL.—The Secretary shall disapprove an exploration plan submitted under this section if the Secretary determines that, because of exceptional geological conditions in the lease areas, exceptional resource values in the marine or coastal environment, or other exceptional circumstances, that—

“(A) the exploration plan would probably cause serious harm or damage to life (including fish and other aquatic life), property, mineral deposits, national security or defense, or the marine, coastal or human environments; and

“(B) the threat of harm or damage would not disappear or decrease to an acceptable extent within a reasonable period of time; and
“(c) the advantages of disapproving the exploration plan outweigh the advantages of exploration.”

“(2) COMPENSATION.—If an exploration plan is disapproved under this subsection, the provisions of subparagraphs (B) and (C) of section 25(h)(2) shall apply to the lease and the plan or any modified plan, except that the reference to a development and production plan shall be considered to be a reference to an exploration plan.”

“(j) OUTER CONTINENTAL SHELF LEASING PROGRAM.—Section 18 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344) is amended—

“(1) in subsection (a)—

(A) in the second sentence, by inserting after “national energy needs” the following: ‘‘and the need for the protection of the marine and coastal environment and resources’’;

(B) in paragraph (1), by striking ‘‘considers’’ and inserting ‘‘gives equal consideration to’’; and

(C) in paragraph (3), by striking ‘‘to the maximum extent practicable’’;

(2) in subsection (b)—

(A) in paragraph (3), by striking ‘‘and’’ at the end;

(B) in paragraph (4), by striking the period at the end and inserting ‘‘and’’;

(C) by adding at the end following: ‘‘(5) provide technical review and oversight of the exploration plan and a systems review of the safety of well design and other operational decisions; (6) conduct regular and thorough safety reviews and inspections, and; (7) enforce all applicable laws (including regulations).’’;

(3) in the second sentence of subsection (d)(2), by inserting ‘‘the head of an intersected Federal agency,’’ after ‘‘Attorney General’’;

(4) in the first sentence of subsection (g), by inserting before the period at the end following: ‘‘, including existing inventories and mapping of marine resources previously undertaken by the Department of the Interior and the National Oceanic and Atmospheric Administration, information provided by the Department of Defense, and other available data regarding energy or mineral resource potential, navigation uses, fisheries uses, recreation uses, habitat, conservation, and military uses on the outer Continental Shelf’’; and

(5) by adding at the end following:

“(1) IN GENERAL.—The Secretary shall carry out a program of research and development to ensure the continued improvement of methodologies for characterizing resources of the outer Continental Shelf and conditions that may affect the ability to develop and use those resources in a safe, sound, and environmentally responsible manner.

“(2) INCLUSIONS.—Research and development activities carried out under paragraph (1) may include activities to provide accurate estimates of energy and mineral resources and potential on the outer Continental Shelf and any activities that may assist in filling gaps in environmental data needed to develop each leasing program under this section.

“(3) LEASING ACTIVITIES.—Research and development activities carried out under paragraph (1) shall not be considered to be leasing or pre-leasing activities for purposes of this Act.

(g) ENVIRONMENTAL STUDIES.—Section 20 of the Outer Continental Shelf Lands Act (43 U.S.C. 1346v) is amended—

“(1) redesignating subsections (a) through (f) as subsections (b) through (g), respectively;

(2) by inserting before subsection (b) ‘‘as so redesignated’’ the following:

“(a) COMPREHENSIVE AND INDEPENDENT STUDIES.—

“(1) IN GENERAL.—The Secretary shall develop and carry out programs for the collection, evaluation, assembly, analysis, and dissemination of environmental and other resource data relevant to carrying out the purposes of this Act.

“(2) SCOPE OF RESEARCH.—The programs under this section shall include—

“(A) the gathering of baseline data in areas before energy or mineral resource development activities occur;

“(B) economic research and monitoring studies to support integrated resource management decisions; and

“(C) the improvement of scientific understanding of energy and mineral resource development activities within the context of best available science.

“(3) INDEPENDENCE.—The Secretary shall create a program within the appropriate bureau established under section 32 that shall—

“(A) be programmatically separate and distinctive from the leasing program;

“(B) carry out the environmental studies under this section;

“(C) conduct additional environmental studies, including studies to support management of energy and mineral resources on the outer Continental Shelf;

“(D) provide for external scientific review of studies under this section, including through appropriate arrangements with the National Academy of Sciences; and

“(E) subject to the restrictions of subsections (g) and (h) of section 18, make available to the public studies conducted and data gathered under this section.’’;

(3) in the first sentence of subsection (b)(1), as so redesignated, inserting ‘‘every 3 years after’’; and

(h) SAFETY RESEARCH AND REGULATIONS.—Section 21 of the Outer Continental Shelf Lands Act (43 U.S.C. 1347) is amended—

“(1) in the first sentence of subsection (a), by striking ‘‘Upon the date of enactment of this section,’’ and inserting ‘‘Not later than May 1, 2011, and every 3 years thereafter’’;

(2) by striking subsection (b)(1) and inserting the following:

“(b) BEST AVAILABLE TECHNOLOGIES AND PRACTICES.—

“(1) IN GENERAL.—In exercising respective responsibilities under this Act, the Secretary, and the Secretary of the Department in which the Coast Guard is operating, shall require, on all new drilling and production operations and, to the maximum extent practicable, on existing operations, the use of the best available and safest technologies and practices, if the failure of equipment would have a significant effect on safety, health, or the environment.

“(2) IDENTIFICATION OF BEST AVAILABLE TECHNOLOGIES.—Not later than May 1, 2011, and not later than every 3 years thereafter, the Secretary shall identify and publish an updated list of best available technologies for key areas of well design and operation, including blowout prevention and blowout and oil spills.

“(3) SAFETY CASE.—Not later than May 1, 2011, the Secretary shall promulgate regulations requiring a safety case be submitted along with each new application for a permit to drill on the outer Continental Shelf.

“(4) EMPLOYEE TRAINING.—

“(1) IN GENERAL.—Not later than May 1, 2011, the Secretary shall promulgate regulations setting standards for training for all workers on offshore facilities (including mobile offshore drilling units) conducting exploration, mineral resource exploration, development, and production operations on the outer Continental Shelf.

“(B) REQUIREMENTS.—The training standards under this paragraph shall require that employers of employees described in subparagraph (A)—

“(i) establish training programs approved by the Secretary; and

“(ii) demonstrate that employees involved in the offshore operations meet standards that demonstrate the aptitude of the employees in critical technical skills.

“(C) EXPERIENCE.—The training standards under this section shall require that any offshore worker with less than 5 years of applied experience in offshore facilities operations and, to the maximum extent practicable after receiving the appropriate training.

“(D) MONITORING TRAINING COURSES.—The Secretary shall ensure that Department employees responsible for offshore facilities monitor, observe, and report on training courses established under this paragraph, including attending a representative number of the training sessions, as determined by the Secretary.’’;

(3) by adding at the end following:

“(g) TECHNOLOGY RESEARCH AND RISK ASSESSMENT PROGRAM.—

“(1) IN GENERAL.—The Secretary shall carry out a program of research, development, and risk assessment to address technology and development issues associated with outer Continental Shelf energy and mineral resource activities, with the primary purpose of informing the role of research, development, and risk assessment relating to safety, environmental protection, and spill response.

“(2) SPECIFIC AREAS OF FOCUS.—The program under this subsection shall include research, development, and other activities related to—

“(A) a risk assessment, using all available data from safety and compliance records both within the United States and internationally;

“(B) an analysis of industry trends in technology, investment, and interest in frontier areas;

“(C) analysis of incidents investigated under section 22;

“(D) reviews of best available technologies, including technologies associated with pipelines, blowout preventer mechanisms, casing, well design, and other associated infrastructure; and

“(E) renewable energy operations.

“(3) INFORMATION SHARING ACTIVITIES.—

“(A) DOMESTIC ACTIVITIES.—The Secretary shall carry out programs to facilitate the exchange and dissemination of scientific and technical information and best practices related to the management of safety and environmental issues associated with energy and mineral resource exploration, development, and production.

“(B) INTERNATIONAL COOPERATION.—The Secretary shall carry out programs to cooperate with international organizations and foreign governments to share information..."
and best practices related to the management of safety and environmental issues associated with energy and mineral resource exploration, development, and production.

(4) The Secretary shall establish, by rule, inspection fees which shall be deposited in the Ocean Energy Enforcement Fund established under paragraph (3), from the designated operator for facilities subject to inspection.

(2) Public Database.—All data and reports related to an incident described in paragraph (1) shall be maintained in a database that is available to the public.

(1) IN GENERAL.—To the extent necessary to fund the inspections described in this paragraph, the Secretary shall collect a non-refundable fee, which shall be deposited in the Ocean Energy Enforcement Fund established under paragraph (3), from the designated operator for facilities subject to inspection.

(2) ESTABLISHMENT.—The Secretary shall establish, by rule, inspection fees.

(1) IN GENERAL.—Not later than 60 days after the end of each fiscal year beginning with fiscal year 2011, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee to the Committee on Energy and Natural Resources of the House of Representatives a report on the operation of the Fund during the fiscal year.

(2) ESTABLISHMENT.—The Secretary shall carry out the studies, analyses, and other activities under this subsection;

(3) OCEAN ENERGY ENFORCEMENT FUND.—There is established in the Treasury a fund, to be known as the ‘Ocean Energy Enforcement Fund’ (referred to in this subsection as the ‘Fund’), to which shall be deposited amounts collected under paragraph (1) and which shall be available only to the extent provided under paragraph (4).

(4) AVAILABILITY OF FEES.—Notwithstanding section 3302 of title 31, United States Code, all amounts collected by the Secretary under this subsection—

(A) shall be credited as offsetting collections;

(B) shall be available for expenditure only for purposes of carrying out inspections of outer Continental Shelf facilities (including mobile offshore drilling units) and the administration of the inspection program;

(C) shall be available only to the extent provided for in advance in an appropriations Act; and

(D) shall remain available until expended.

(5) INDEPENDENCE.—The Secretary shall create a program within the appropriate bureau.

(6) USE OF DATA.—The Secretary shall use in chapter 11 of title 49, United States Code, all amounts collected by the Secretary under this subsection—

(A) in paragraph (1)—

(i) by striking ‘‘as a condition of lease’’ before the period at the end;

(ii) by inserting ‘‘as a condition of the lease’’ before the period at the end;

(B) in the last sentence, by inserting ‘‘as a condition of the lease’’ before the period at the end;

(2) in subsection (d)—

(A) in paragraph (1)—

(i) in the first sentence, by inserting ‘‘each loss of well control, blowout, activation of the blowout preventer, and other accident that presented a serious risk to human or environmental safety’’ after ‘‘after ‘‘fire’’;”;

(ii) in the last sentence, by inserting ‘‘as a condition of the lease’’ before the period at the end;

(B) in the last sentence of paragraph (2), by inserting ‘‘as a condition of lease’’ before the period at the end;

(3) in subsection (e)—

(A) by striking ‘‘(e) The’’ and inserting the following:

(e) REVIEW OF ALLIED SAFETY VIOLATIONS.—

(1) IN GENERAL.—The; and

(B) by adding at the end the following:

(2) INVESTIGATION.—The Secretary shall investigate an event from any employee of the lessee or any subcontractor of the lessee made under paragraph (1).’’, and

(3) by adding at the end of the section the following:

(g) INDEPENDENT INVESTIGATION.—

(1) IN GENERAL.—At the request of the Secretary, the National Transportation Safety Board shall conduct an independent investigation of any accident, occurring in the outer Continental Shelf and involving activities under this Act that does not otherwise fall within the definition of an accident or major marine casualty, as those terms are used in chapter 11 of title 49, United States Code.

(2) TRANSPORTATION ACCIDENT.—For purposes of an investigation under this subsection, the accident that is the subject of the request by the Secretary shall be determined to be a transportation accident within the meaning of that term in chapter 11 of title 49, United States Code.

(h) PREVENTION ON CAUSES AND CORRECTIVE ACTIONS.—

(1) IN GENERAL.—For each incident investigated under this section, the Secretary shall make public any information about the causes and the public technical information about the causes and corrective actions taken.

(2) PUBLIC DATABASE.—All data and reports related to an incident described in paragraph (1) shall be maintained in a database that is available to the public.

(1) IN GENERAL.—To the extent necessary to fund the inspections described in this paragraph, the Secretary shall collect a non-refundable fee, which shall be deposited in the Ocean Energy Enforcement Fund established under paragraph (3), from the designated operator for facilities subject to inspection.

(2) ESTABLISHMENT.—The Secretary shall establish, by rule, inspection fees.

(A) at an aggregate level equal to the amount necessary to offset the annual expenses of inspections of outer Continental Shelf facilities (including mobile offshore drilling units) by the Department of the Interior; and

(B) using a schedule that reflects the differences in complexity among the classes of facilities to be inspected.

(3) OCEAN ENERGY ENFORCEMENT FUND.—There is established in the Treasury a fund, to be known as the ‘Ocean Energy Enforcement Fund’ (referred to in this subsection as the ‘Fund’), to which shall be deposited amounts collected under paragraph (1) and which shall be available only as provided under paragraph (4).

(4) AVAILABILITY OF FEES.—Notwithstanding section 3302 of title 31, United States Code, all amounts collected by the Secretary under this subsection—

(A) shall be credited as offsetting collections;

(B) shall be available for expenditure only for purposes of carrying out inspections of outer Continental Shelf facilities (including mobile offshore drilling units) and the administration of the inspection program;

(C) shall be available only to the extent provided for in advance in an appropriations Act; and

(D) shall remain available until expended.

(5) INDEPENDENCE.—The Secretary shall—

(A) by striking ‘‘(e) The’’ and inserting the following:

(e) REVIEW OF ALLIED SAFETY VIOLATIONS.—

(1) IN GENERAL.—The; and

(B) by adding at the end the following:

(2) INVESTIGATION.—The Secretary shall investigate an event from any employee of the lessee or any subcontractor of the lessee made under paragraph (1).’’, and

(3) by adding at the end of the section the following:

(g) INDEPENDENT INVESTIGATION.—

(1) IN GENERAL.—At the request of the Secretary, the National Transportation Safety Board shall conduct an independent investigation of any accident, occurring in the outer Continental Shelf and involving activities under this Act that does not otherwise fall within the definition of an accident or major marine casualty, as those terms are used in chapter 11 of title 49, United States Code.

(2) TRANSPORTATION ACCIDENT.—For purposes of an investigation under this subsection, the accident that is the subject of the request by the Secretary shall be determined to be a transportation accident within the meaning of that term in chapter 11 of title 49, United States Code.

(h) PREVENTION ON CAUSES AND CORRECTIVE ACTIONS.—

(1) IN GENERAL.—For each incident investigated under this section, the Secretary shall make public any information about the causes and the public technical information about the causes and corrective actions taken.
the Department of the Interior, or any officer or employee thereof, in connection with any judicial, rulemaking, regulation, order, lease, permit, regulation, inspection, enforcement action, or other particular matter which is pending before the Department of the Interior or in which the Department has a direct and substantial interest; or

(ii) accept employment or compensation, during the 1-year period beginning on the date on which employment with the Department has ceased, from any person (other than the officer or employee) that has a direct and substantial interest—

(A) that was pending under the official responsibility of the employee as an officer or employee of the Department during the 1-year period preceding the termination of the responsibility; or

(B) in which the employee participated personally and substantially as an officer or employee.

(b) PRIOR EMPLOYMENT RELATIONSHIPS.—

No full-time officer or employee of the Department of the Interior who directly or indirectly discharges duties or responsibilities under this Act shall participate personally and substantially as an employee of the Department during the 1-year period preceding the termination of the responsibility.

(c) GIFTS FROM OUTSIDE SOURCES.—No full-time officer or employee of the Department of the Interior who directly or indirectly discharges duties or responsibilities under this Act shall accept a gift in violation of subsection (b) of section 216 of title 18, United States Code.

(d) Without obtaining the prior written permission of the Secretary, an officer or employee shall not accept or solicit any gift in violation of subsection (b) of section 216 of title 18, United States Code.

SEC. 6. SAFER OIL AND GAS PRODUCTION.

(a) PROGRAM AUTHORIZATION.—

Section 990A of the Energy Policy Act of 2005 (42 U.S.C. 16371) is amended—

(1) in the section heading, by striking “ULTRA-DEEPWATER AND UNCONVENTIONAL ONSHORE NATURAL GAS AND OTHER PETROLEUM” and inserting “SAFE OIL AND GAS PRODUCTION AND ACCIDENT PREVENTION”;

(2) in subsection (a), by striking “., by increasing” and all that follows through the period at the end and inserting “and environmentally responsible exploration, development, and production of hydrocarbon resources.”;

(3) in subsection (c)(1)—

(A) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

(B) by inserting after subparagraph (C) the following:

“(D) projects will be selected on a competitive, peer-reviewed basis.”; and

(4) in subsection (d)—

(A) in paragraph (6), by striking “ultra-deepwater” and inserting “deepwater”;

(B) in paragraph (7)—

(i) in subparagraph (A)—

(I) in the subparagraph heading, by striking “ULTRA-DEEPWATER” and inserting “deepwater’’;

(ii) in paragraph (6), by striking “ultra-deepwater” and inserting “deepwater’’;

(ii) in subparagraph (B), by striking “and environmental mitigation” and inserting “use of non-toxic materials, drilling safety, and environmental mitigation and accident prevention”;

(iii) in subparagraph (C), by inserting “and accident prevention, well control and systems integrity,” after “including”; and

(iv) by adding at the end the following:

“(D) SAFETY AND ACCIDENT PREVENTION TECHNOLOGY RESEARCH AND DEVELOPMENT.—Awards from allocations under section 999H(d)(4) shall be expended on areas including—

(i) development of improved cementing and casing technologies;

(ii) best management practices for cementing, drilling, and other well control activities and technologies;

(iii) development of integrity and stewardship guidelines for—

(1) well-plugging and abandonment;

(2) development of wellbore sealant technologies;

and

(iv) improvement and standardization of blowout prevention devices.”;

(C) by adding at the end the following:

“(B) STUDY; REPORT.—

(A) STUDY.—As soon as practicable after the date of enactment of this Act, the Secretary shall enter into an arrangement with the National Academy of Sciences under which the Academy shall conduct a study to determine—

(i) whether the benefits provided through each award under this subsection during calendar year 2011 have been maximized; and

(ii) the new areas of research that could be carried out to meet the overall objectives of the program.

(B) REPORT.—Not later than January 1, 2012, the Secretary shall submit to the appropriate committees of Congress a report that contains a description of the results of the study conducted under subparagraph (A).
the date described in that subparagraph and each 5-year period thereafter.”; (5) in subsection (e)— (A) in paragraph (2)— (i) in the first sentence of subparagraph (A), by inserting “to the Secretary for review” after “submit” and; (ii) in the first sentence of subparagraph (B), by inserting “the Secretary shall ensure that no such Advisory Committees’’; and (B) by adding at the end the following: “(6) RESEARCH FINDINGS AND RECOMMENDATIONS FOR IMPLEMENTATION.—The Secretary, in consultation with the Secretary of the Interior and the Administrator of the Environmental Protection Agency, shall publish in the Federal Register an annual report on the research programs and complementary research funded under this section and any recommendations for implementation that the Secretary, in consultation with the Secretary of the Interior, makes in its recommendation.”; (6) in subsection (i)— (A) in the first sentence of subparagraph (A), by inserting “‘Ultra-Deepwater and Unconventional Natural Gas and Other Petroleum Resources’;” and; (iii) by striking “contract management,”. (B) in paragraph (2), by striking “32.5 percent” and inserting “21 percent” and “21.5 percent” and inserting “21 percent” and inserting “21 percent” and inserting “21 percent” (B) in paragraph (10) (as redesignated by a subparagraph (3), by striking “in an economically inaccessible geological formation, including resources of small producers”; (1) FUNDING.—Section 999H of the Energy Policy Act of 2005 (42 U.S.C. 16378) is amended by striking “20 percent shall be used for research and development” and all that follows through “in the United States for, and immediate response of the United States to, the incident and the extent of the preparedness of the United States for, and immediate response of the United States to, the incident and”. (2) to ascertain, evaluate, and report on the response developed by all relevant governmental agencies regarding the facts and circumstances surrounding the incident; (3) to build upon the investigations of other Federal and state agencies and avoid unnecessary duplication, by reviewing the findings, conclusions, and recommendations of— (A) the Committees on Energy and Natural Resources and Commerce, Science, and Transportation of the Senate; (B) the Committee on Natural Resources and the Subcommittee on Oversight and Investigations of the House of Representatives; and; (C) other Executive branch, congressional, or independent commission investigations into the Deepwater Horizon incident of 2010, other oil safety platform accidents and major spills, and major oil spills generally; (D) to make a full and complete accounting of the response to the Deepwater Horizon incident of 2010, other fatal oil platform accidents and major spills, and major oil spills generally; (E) in paragraph (10) (as redesignated by a subparagraph (3), by striking “in an economically inaccessible geological formation, including resources of small producers”; (F) FUNDING.—Section 999H of the Energy Policy Act of 2005 (42 U.S.C. 16378) is amended by striking “20 percent shall be used for research and development” and all that follows through “in the United States for, and immediate response of the United States to, the incident and the extent of the preparedness of the United States for, and immediate response of the United States to, the incident and”. (2) to ascertain, evaluate, and report on the response developed by all relevant governmental agencies regarding the facts and circumstances surrounding the incident; (3) to build upon the investigations of other Federal and state agencies and avoid unnecessary duplication, by reviewing the findings, conclusions, and recommendations of— (A) the Committees on Energy and Natural Resources and Commerce, Science, and Transportation of the Senate; (B) the Committee on Natural Resources and the Subcommittee on Oversight and Investigations of the House of Representatives; and; (C) other Executive branch, congressional, or independent commission investigations into the Deepwater Horizon incident of 2010, other oil safety platform accidents and major spills, and major oil spills generally; (D) to make a full and complete accounting of the response to the Deepwater Horizon incident of 2010, other fatal oil platform accidents and major spills, and major oil spills generally; (E) in paragraph (10) (as redesignated by a subparagraph (3), by striking “in an economically inaccessible geological formation, including resources of small producers”; (F) in paragraph (10) (as redesignated by a subparagraph (3), by striking “in an economically inaccessible geological formation, including resources of small producers”; (G) in paragraph (10) (as redesignated by a subparagraph (3), by striking “in an economically inaccessible geological formation, including resources of small producers”; (H) in paragraph (10) (as redesignated by a subparagraph (3), by striking “in an economically inaccessible geological formation, including resources of small producers”; (I) in paragraph (10) (as redesignated by a subparagraph (3), by striking “in an economically inaccessible geological formation, including resources of small producers”; (J) in paragraph (10) (as redesignated by a subparagraph (3), by striking “in an economically inaccessible geological formation, including resources of small producers”; (K) in paragraph (10) (as redesignated by a subparagraph (3), by striking “in an economically inaccessible geological formation, including resources of small producers”; (L) in paragraph (10) (as redesignated by a subparagraph (3), by striking “in an economically inaccessible geological formation, including resources of small producers”; (M) in paragraph (10) (as redesignated by a subparagraph (3), by striking “in an economically inaccessible geological formation, including resources of small producers”; (N) in paragraph (10) (as redesignated by a subparagraph (3), by striking “in an economically inaccessible geological formation, including resources of small producers”; (O) in paragraph (10) (as redesignated by a subparagraph (3), by striking “in an economically inaccessible geological formation, including resources of small producers”; (P) in paragraph (10) (as redesignated by a subparagraph (3), by striking “in an economically inaccessible geological formation, including resources of small producers”; (Q) in paragraph (10) (as redesignated by a subparagraph (3), by striking “in an economically inaccessible geological formation, including resources of small producers”; (R) in paragraph (10) (as redesignated by a subparagraph (3), by striking “in an economically inaccessible geological formation, including resources of small producers”; (S) in paragraph (10) (as redesignated by a subparagraph (3), by striking “in an economically inaccessible geological forma
(ii) environmental compliance; (iii) health and safety law (particularly oil spill legislation); (iv) oil spill insurance policies; (v) proposals for organization, coordination, planning, management arrangements, procedures, rules, and regulations; (vi) oil and gas exploration and production; (vii) environmental cleanup; and (viii) fisheries and wildlife management.

3. Conclusions and recommendations as the Commission determines to be appropriate, including proposals for organization, coordination, planning, management arrangements, procedures, rules, and regulations.

4. Relationship to inquiry by congressional committees. In investigating facts and circumstances relating to energy policy, the Commission shall—

A. first review the information compiled by, and the conclusions, and recommendations of, the committees identified in subparagraphs (A) and (B) of subsection (b)(3); and

B. after completion of that review, pursue any appropriate area of inquiry, if the Commission determines that—

(i) those committees have not investigated that area;

(ii) the investigation of that area by those committees has not been completed; or

(iii) a new area has been identified by the committees has become available with respect to that area.

4. POWERS OF COMMISSION.

(a) Hearing and evidence.—The Commission, or, on the authority of the Commission, any subcommittee or member of the Commission, may, for the purpose of carrying out this section—

(1) hold such hearings, meet and act at such times and places, take such testimony, receive such evidence, and administer such oaths;

(2) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, documents, tapes, and materials; as the Commission or such subcommittee or member considers to be advisable.

(b) Subpoenas.—

(1) Issuance.—A subpoena may be issued under this paragraph only—

(A) by the agreement of the Chairperson and the Vice Chairperson; and

(B) by the affirmative vote of 6 members of the Commission.

(2) Signature.—Subject to clause (i), a subpoena issued under this paragraph—

(A) may include relevant facts and circumstances relating to—

(i) permitting agencies; (ii) environmental and worker safety law enforcement agencies; (iii) national energy requirements; (iv) deepwater and ultradeepwater oil and gas exploration and management; (v) regulatory specifications, testing, and requirements for offshore oil and gas well explosion prevention; (vi) regulatory specifications, testing, and requirements offshore oil and gas well casing and cementing regulation; (vii) the role of congressional oversight and regulatory agencies; (viii) other areas of the public and private sectors determined to be relevant to the Deepwater Horizon incident by the Commission;

(B) to identify, review, and evaluate the lessons learned from the Deepwater Horizon incident of April 20, 2010, regarding the structure, management policies, and procedures of the Federal Government, and, if appropriate, State and local governments and nongovernmental entities, and the private sector, relative to detecting, preventing, and responding to those incidents; and

(C) to submit to the President and Congress the findings, conclusions, and recommendations as the Commission determines to be appropriate, including proposals for organization, coordination, planning, management arrangements, procedures, rules, and regulations.

(b) public hearings and meetings, to the extent appropriate; and

(c) release public versions of the reports required under paragraphs (1) and (2) of subsection (j).

2. Public hearings.—Any public hearings of the Commission shall be conducted in a manner consistent with the protection of proprietary or sensitive information provided to or desired by the Commission as required by any applicable law (including a regulation or Executive order).

G. Staff of Commission.

(a) Appointment and compensation.—

(A) In general.—The Chairperson, in consultation with the Vice Chairperson and in accordance with rules established by the Commission, may, without regard to the civil service laws (including regulations), appoint and fix the compensation of a staff director and such other personnel as are necessary to enable the Commission to carry out the functions of the Commission.

(B) civil service status.—The detail of any officer or other person detailed to the Federal Government may be detailed to the Commission in accordance with all applicable laws (including regulations and Executive orders).

4. Information from Federal agencies.

(a) In general.—The Commission may secure such hearings and evidence as are required under this section or during the investigation of that area by those committees identified by the Commission in accordance with all applicable laws (including regulations and Executive orders).

(b) Assistance from Federal agencies.

(A) General services administration.—The Administrator of General Services shall provide to the Commission on a reimbursable basis administrative support and other services for the performance of the functions of the Commission.

(B) Other departments and agencies.—In addition to the assistance prescribed in subparagraph (A), departments and agencies of the United States may provide to the Commission such services, funds, facilities, staff, and other support services as are determined to be advisable and authorized by law.

G. Gifts.—The Commission may accept, use, and dispose of gifts or donations of services or property, including travel, for the direct advancement of the functions of the Commission.

7. Postal services.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

I. Public meetings and hearings.

(1) Public meetings and release of public versions of reports.—The Commission shall—

(A) hold public hearings and meetings, to the extent appropriate; and

(B) release public versions of the reports.

2. Civil service status.—The detail of any personnel of the Commission who are employees shall be considered to be employees under section 2105 of title 5, United States Code.

B. Personnel as federal employees.

(i) In general.—The staff director and any personnel of the Commission who are employees shall be considered to be employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

(ii) Members of commission.—Clause (i) shall not apply to members of the Commission.

2. Detailers.—

(A) In general.—An employee of the Federal Government may be detailed to the Commission without reimbursement.

(B) Civil service status.—The detail of the employee shall be without interruption of any civil service rights.

3. Procurement of temporary and intermittent services.—The Chairperson of the
Commission may procure temporary and intermittent services in accordance with section 5109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily rate prescribed for level V of the Executive Schedule under section 5316 of that title.

(b) COMPENSATION AND TRAVEL EXPENSES.—

(1)  MEMBERS.—

(A) NON-FEDERAL EMPLOYEES.—A 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 rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Commission.

(B) FEDERAL EMPLOYEES.—A member of the Commission who is an officer or employee of the Federal Government shall serve without compensation in addition to the compensation received for the services of the member as an officer or employee of the Federal Government.

(2)  TRAVEL EXPENSES.—A member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Commission.

(3)  SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.—

(1)  IN GENERAL.—Subject to paragraph (2), the appropriate Federal agencies or departments shall, in consultation with the Commission, conduct investigations and make determinations under section 3109(b) of title 5, United States Code, to determine and advise the Commission of the need for clearance and that such determination shall be verified through certification and classification by independent third parties that—

(A) have been preapproved by both the Secretary and the Director of Intelligence at the Department in which the Coast Guard is operating; and

(B) have no financial conflict of interest in conducting the duties of the third parties.

(2)  MINIMUM SYSTEMS COVERED.—At a minimum, the regulations issued under paragraph (1) shall require the certification and classification by an independent third party who meets the requirements of paragraph (2) of—

(A) mobile offshore drilling units;

(B) fixed and floating drilling or production facilities;

(C) drilling systems, including risers and blowout preventers; and

(D) any other equipment dedicated to the safety systems relating to offshore extraction and production of oil and gas.

(4)  EXCEPTIONS.—The Secretary and the Director of Intelligence at the Department in which the Coast Guard is operating may waive the standards established by regulation under paragraph (1) for an existing system only if—

(A) the system is of an age or type where the authority of the Secretary and the Director of Intelligence is required to achieve high academic standards.

In a country where almost one in five children is obese, where thousands of students are bullied and harassed daily, and where access to healthy food and to safe, supportive social environments is crucial; where high-quality learning and access to resources that will support their success.

Students who travel to school safely; who attend classes in structurally and environmentally sound buildings where the adults model positive teamwork and collaboration skills; where good nutrition is available and where opportunities for physical activity are available and expected; where they have a safe, supportive social environment, students who have all of these conditions in their schools is believed to achieve high academic standards.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled ‘Budgetary Effects of PAYGO Legislation’ for this Act, submitted for printing in the Congressional Record by the Chairman of the House Budget Committee, that such statement has been submitted prior to the vote on passage.

By Mr. HARKIN (for himself and Mrs. GILLIBRAND): S. 919. A bill to authorize grant programs to ensure successful, safe, and healthy students; to the Committee on Health, Education, Labor, and Pension.

Mr. HARKIN. Mr. President, one of our greatest national priorities is ensuring that all students in all schools are in settings that are safe; classrooms that support learning; situations that ensure our children will be successful.

To be a successful student, to be a contributing citizen to our democracy, to be prepared for college and the workforce of tomorrow, our students must be of sound mind, of sound body, and have access to resources that will support their success.

In a country where almost one in five children is obese, where thousands of students are bullied and harassed daily, and where access to high-quality mental and physical health care is limited, students must have these basic conditions for learning in order to be successful.

While the Department of Justice reports that the rate of serious incidents of school violence continue to decline, according to the National Center for Education Statistics, bullying remains a pervasive problem that affects almost one in four students each year. As

SEC. 12. SAVINGS PROVISIONS.
we have seen in recent times, sometimes bullying results in the worst possible tragedy, the death of a child.

Fifteen-year-old Phoebe Prince, a freshman at South Hadley High School in Massachusetts, endured nearly three months of torment by classmates. On January 14, 2010, Phoebe hanged herself in the stairwell of her family’s home, following weeks of taunting by classmates. The day before she died, she told a friend: “School has been close to intolerable lately.” In California, thirteen-year-old Seth Walsh committed suicide this past October because of the bullying he experienced in his school. We need to have the expectations in all of our schools that all students will be valued and all students will have a safe haven to learn and achieve. In New York City, middle schooler Gurwinder Singh was targeted by bullies who bashed his head into a metal pole while bystanders watched, because of his Sikh religion. Luckily, Gurwinder lived and has become an outspoken proponent of bullying prevention. We cannot stand idly by when school becomes a hostile place for kids.

Thus, today, I am introducing the Successful, Safe, and Healthy Students Act. This legislation will advance student achievement and promote the positive physical, mental, and emotional health of students throughout the nation. It will help to reduce violence in schools, prevent bullying and harassment, help students make responsible choices about drugs, tobacco, and alcohol, and create the type of school environments where students can do their best work and achieve the highest possible academic outcomes, while also becoming healthy, happy and productive members of our communities.

Essential conditions for learning include schools that provide for adequate physical activity, positive mental health and well-being, nutrition, and fitness; and school environments that—(A) provide opportunities for good nutrition and healthy living, and are free of violence, harassment, bullying and other forms of interpersonal aggression. Schools that have the right conditions for learning are free from violence and prevent the use and abuse of drugs and alcohol. And schools with good conditions for learning have positive adult role models with high expectations for students’ development, conduct, and academic achievement.

For those who might be skeptical about these critical conditions for learning, we only need to look to the States and their efforts to improve school performance and accountability. Many States are moving beyond the limited measures of school performance required by No Child Left Behind and have started to collect data on school-wide factors that are associated with student success. Some of these areas include school climate, physical activity of students, and physical and emotional safety. In fact, a March 2011 report from the RAND Corporation indicated that many States are now establishing accountability systems that include school climate, family involvement, and student engagement.

This legislation will provide to each State the support necessary to measure school-level conditions, and provide funding for improving school-level conditions in each school in the State. Resources will also be available to offer grants to school districts to establish policies and activities to improve the conditions for learning in each of their schools. This legislation gives State and local school districts the resources and opportunities to create safe, healthy schools that will enhance the academic achievement of students.

This legislation is an essential tool for current States to support students who are preparing for college, a career, and to be world-class citizens.

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. 919

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 “Successful, Safe, and Healthy Students Act of 2011.”

SEC. 2. PURPOSE. The purpose of this Act is to assist States in developing and implementing comprehensive programs and strategies to foster positive conditions for learning in public schools, in order to increase academic achievement for all students through the provision of Federal assistance to States for—

1. promotion of student physical health and well-being, nutrition, and fitness;
2. promotion of student mental health and well-being;
3. prevention of violence, harassment (which includes bullying), and substance abuse among students; and
4. promotion of safe and supportive schools.

SEC. 3. DEFINITIONS. In this Act:

1. CHILD AND ADOLESCENT PSYCHIATRIST; OTHER QUALIFIED PSYCHOLOGIST; SCHOOL COUNSELOR; SCHOOL PSYCHOLOGIST; SCHOOL SOCIAL WORKER: “child and adolescent psychiatrist,” “other qualified psychologist,” “school counselor,” “school psychologist,” “school social worker,” “school psychiatrists,” “school psychologists,” “school social workers,” “school counselors,” “school psychologists,” “school social workers” shall have the meanings given them in section 5421(e) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7241(e)).

2. CONDITIONS FOR LEARNING:—The term ‘conditions for learning’ means conditions that advance student achievement and positive child and youth development by proactively supporting schools (inclusive of school personnel) that—(I) promote positive student academic achievement; (II) promote positive student social and emotional skills, including tolerance and respect for others; (III) provide opportunities for physical activity; (IV) promote physical, mental, and emotional health; (V) ensure physical and emotional safety for students and staff; (VI) promote social, emotional, and character development; and (VII) have the following attributes: (i) Provide opportunities for physical activity, good nutrition, and healthy living.

3. Prevent use and abuse of drugs (including bullying), abuse, dating violence, and other forms of interpersonal aggression or violence.

4. Are free of weapons.

5. Do not condone or tolerate unhealthy or harmful behaviors, including discrimination of any kind.

6. Help staff and students to model positive social and emotional skills, including tolerance and respect for others. Promote concern for the well-being of students, including through the presence of caring adults.

7. Support State and local educational agencies, and schools to examine and improve school-level conditions for learning;

8. Collect school-level data on—
   (I) physical education indicators;
   (II) individual student attendance and truancy;
   (III) in-school suspensions, out-of-school suspensions, expulsions, referrals to law enforcement, school-based arrests, and disciplinary transfers (including placements in alternative schools) by student;
   (IV) the frequency, seriousness, and incidence of violence and drug-related offenses resulting in disciplinary action in elementary schools and secondary schools in the State;

9. The incidence and prevalence, age of onset, perception of health risk, and perception of social disapproval of drug use and violence, including harassment (which includes bullying), by youth and school personnel in schools and communities;

10. Collect and report data, including, at a minimum, the data described in subclauses (II), (III), and (V) of clause (ii), in the aggregate and disaggregated by the categories of race, ethnicity, gender, disability status, migrant status, English proficiency, and status as economically disadvantaged, and cross-tabulated across all of such categories by gender and by disability;

11. Protect student privacy, consistent with applicable data privacy laws and regulations, including section 444 of the General Education Provisions Act (20 U.S.C. 1232g,

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commonly known as the “Family Educational Rights and Privacy Act of 1974”); and

(v) to the extent possible, utilize a web-based reporting system.

(C) COMPILING STATISTICS.—In compiling the statistics required to measure conditions for learning in the State—

(i) the information described in subparagraph (B)(ii)(IV) shall be defined pursuant to the State’s criminal code, and aligned to the extent possible, with the Federal Bureau of Investigation’s Uniform Crime Reporting categories, but shall not identify victims of crimes or persons accused of crimes and the collected data shall include incident reports by school officials, anonymous student surveys, and teacher surveys;

(ii) the performance metrics that are established under section 5(i) shall be collected and the performance on such metrics shall be defined and reported uniformly statewide;

(iii) the State shall collect, analyze, and use the data under subparagraph (B)(ii), as required under section 5(g)(5), at least annually, except the indicators under subparagraph (B)(ii)(V) may be collected, at a minimum, every 2 years; and

(iv) grant recipients and subgrantee recipients shall use the data for planning and continuous improvement of activities implemented under this Act, and may collect data for indicators described locally defined, and that are not reported to the State, to meet local needs (so long as such indicators are aligned with the conditions for learning).

(4) USE INNOVATIVE APPROACHES.—The term “drug and violence prevention” means—

(A) with respect to drugs, prevention, early intervention, and referral to prevention related to the abuse and illegal use of drugs (including tobacco, alcohol, illegal drugs, and unauthorized use of pharmaceuticals);

(i) raise awareness about the costs and consequences of substance use and abuse;

(ii) change attitudes, perceptions, and social norms about the dangers and acceptance of alcohol, tobacco, and illegal drugs, and unauthorized use of pharmaceuticals;

(iii) reduce access to and use of alcohol, tobacco, and drugs; and

(B) with respect to violence, the promotion of school safety on school premises, going to and from school, and at school-sponsored activities, through the creation and maintenance of a school environment that—

(i) is free of weapons;

(ii) fosters individual responsibility and respect for the rights and dignity of others;

(iii) promotes, preventative approaches to school discipline, such as schoolwide positive behavior supports and restorative justice, that improve student engagement and minimize students’ removal from instruction and reducing disparities among the subgroups of students described in section 1111(b)(2)(C)(v) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6111(b)(2)(C)(v)); and

(iv) demonstrates preparedness and readiness to respond to, and recover from, incidents of violence, such that students and school personnel are free from—

(I) violent and disruptive acts;

(II) harassment (which includes bullying);

(III) personal harassment, dating violence, and abuse; and

(IV) victimization associated with prejudice and intolerance.

(5) ELIGIBLE LOCAL APPLICANT.—The term “eligible local applicant” means a local educational agency or consortium of local educational agencies to—

(A) implement school-based activities; and

(B) conduct school-level measurement of conditions for learning that are consistent with this Act.

(6) HARASSMENT.—The term “harassment” means conduct, including bullying, that is sufficiently severe, persistent, or pervasive to limit a student’s ability to participate in or benefit from a program or activity of a public school or educational agency, or to create a hostile environment at a program or activity of a public school or educational agency, including acts of verbal, nonverbal, or physical aggression, intimidation, or hostility, if such conduct is based on—

(A) a student’s actual or perceived race, color, national origin, sex, disability, sexual orientation, gender identity, or religion;

(B) the actual or perceived race, color, national origin, sex, disability, sexual orientation, gender identity, or religion of a person with whom a student associates or has associated; or

(C) any other distinguishing characteristics that may be defined by a State or local educational agency.

(7) LOCAL EDUCATIONAL AGENCY.—The term “local educational agency” has the meaning given to that term in the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801). (B) LOCAL SCHOOL EDUCATION INDICATORS.—The term “physical education indicators” means a set of measures for instruction on physical activity, health-related fitness, physical competence, and cognitive understanding about physical activity. Such indicators shall be publicly reported annually in the State’s conditions for learning measurement system, and shall include—

(A) for the State, for each local educational agency in the State, and for each school in the State, the average number of minutes that all students spend in required physical education, and the average number of minutes that all students engage in moderate to vigorous physical activity, as measured against established recommended guidelines of the Centers for Disease Control and Prevention and the Department of Health and Human Services; and

(B) for the State, the percentage of local educational agencies that have a required, age-appropriate physical education curriculum that adheres to Centers for Disease Control and Prevention guidelines and State standards;

(C) for the State, for each local educational agency in the State, and for each school in the State, the percentage of elementary school and secondary school physical education teachers who are State licensed or certified to teach physical education;

(D) for the State, and for each local educational agency in the State, the percentage of school counselors certified or licensed physical education teacher certified in adapted physical education; and

(E) for each school in the State, the number of indoor square feet and the number of outdoor square feet used primarily for physical education.

(9) PROGRAMS TO PROMOTE MENTAL HEALTH.—The term “programs to promote mental health” means programs that—

(A) develop students’ social and emotional competencies; and

(B) link students with local mental health systems as follows:

(i) Enhance, improve, or develop collaborative efforts between school-based services and mental health professionals to provide, enhance, or improve prevention, diagnosis, and treatment services to students, and to improve student social emotional competencies.

(ii) Enhance the availability of crisis intervention services, appropriate referrals for students potentially in need of mental health services, including suicide prevention, and ongoing mental health services.

(iii) Provide training for the school personnel and mental health professionals who will participate in the program.

(iv) Provide technical assistance and consultation to school systems, mental health agencies, and families participating in the program.

(v) Provide services that establish or expand school counseling and mental health programs that—

(I) are comprehensive in addressing the counseling, social, emotional, behavioral, mental health, and educational needs of all students;

(II) use a developmental, preventive approach to counseling and mental health services;

(III) are linguistically appropriate and culturally responsive;

(IV) increase the range, availability, quantity, and quality of counseling and mental health services in the elementary schools and secondary schools of the local educational agency;

(V) expand counseling and mental health services through school-based services, school social workers, school psychologists, other qualified psychologists, or child and adolescents psychiatrists;

(VI) use innovative approaches to—

(aa) increase children’s understanding of peer and family relationships, work and self, decisionmaking, or academic and career planning; or

(bb) improve peer interaction;

(VII) provide counseling and mental health services in settings that meet the range of student needs;

(VIII) include professional development appropriate to the activities covered in this paragraph for teachers, school leaders, instructional staff, and appropriate school personnel, including training in appropriate identification and early intervention techniques by school counselors, school social workers, school psychologists, other qualified psychologists, or child and adolescent psychiatrists;

(IX) ensure a team approach to school counseling and mental health services in the schools served by the local educational agency;

(X) ensure work toward ratios recommended by the American School Counselor Association of 1 school counselor to 250 students; and

(bb) by the School Social Work Association of America of 1 school social worker to 400 students; and

(cc) by the National Association of School Psychologists of 1 school psychologist to 700 students; and

(XI) ensure that school counselors, school psychologists, other qualified psychologists, school social workers, or child and adolescent psychiatrists paid from funds made available under this program spend a majority of their time counseling or providing mental health services to students or in other activities directly related to such processes.

(10) PROGRAMS TO PROMOTE PHYSICAL ACTIVITY, EDUCATION, FITNESS, AND NUTRITION.—The term “programs to promote physical activity, education, fitness, and nutrition” means programs that increase and enable academic performance, being physically well, being activities and provide teacher professional development. Such programs shall be
out the purpose of this section.

(3) DETERMINATION OF ADMISSION FOR COMPETITIVE GRANT.—

(a) IN GENERAL.—The Secretary shall make a determination as to whether an application is complete, and notify the applicant within 60 days of the Secretary's receipt of such application, of the Secretary's determination as to whether the application is complete.

(b) INCOMPLETE APPLICATION.—If the Secretary determines that an application is incomplete, the Secretary shall return the application to the applicant and provide written notice of the specific deficiencies.

(4) RESERVATION OF FUNDING.—

The Secretary shall reserve such portion of the United States Treasury as is necessary to carry out this Act, through such means, and in such manner, as the Secretary determines to be necessary to carry out this Act.

(5) FUNDING ALLOCATION.—

The Secretary shall allocate funding to the States, in accordance with the requirements of this Act.

(6) FUNDING DETERMINATION.—

The Secretary shall make a determination as to whether an application is complete, and notify the applicant within 60 days of the Secretary's receipt of such application, of the Secretary's determination as to whether the application is complete.

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to award subgrants, on a competitive basis, to eligible local applicants.

(g) REQUIRED STATE ACTIVITIES.—A State that receives a grant under this section shall—

(1) not later than 1 year after receipt of the grant, develop, adapt, improve, or adopt and implement a statewide conditions for learning measurement system (unless the State can demonstrate, to the satisfaction of the Secretary, that an appropriate system has already been implemented) that annually measures the State’s progress in the conditions for learning for every public school in the State;

(2) collect information in each year of the grant on how learning at the school-building level through comprehensive needs assessments of students, school staff, and family perceptions, experiences, and behaviors;

(3) collect annual incident data at the school-building level that are accurate and complete;

(4) publicly report, at the school level and district level, the data collected in the conditions for learning measurement system each year in a timely and highly accessible manner;

(5) use, on a continuous basis, the results of the conditions for learning measurement system to—

(A) identify and address conditions for learning statewide;

(B) help subgrantees identify and address school and student needs; and

(C) provide individualized assistance to the lowest-performing schools (consistent with section 1116 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316)) and schools with significant conditions for learning weaknesses as identified through the conditions for learning measurement system with implementation of activities under this Act.

(h) SUBGRANTS.—

(1) IN GENERAL.—

(A) AWARDING OF SUBGRANTS.—A State that receives a grant under this section shall award subgrants, on a competitive basis, to eligible subgrantees (which may apply in partnership with 1 or more community-based organizations)—

(i) based on need as identified by data from State assessments on conditions for learning measurement systems;

(ii) that are of sufficient size and scope to enable subgrantees to carry out approved activities; and

(iii) not less than 20 percent of the subgrant funds are allocated to carry out programs to promote physical activity, education, fitness, and nutrition.

(B) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require States, in making subgrants to eligible local applicants, to require subgrant recipients to implement an annual report on substance abuse prevention, 20 percent of grant funds for the promotion of mental health, and 20 percent of grant funds for the promotion of physical activity, education, fitness, and nutrition.

(3) APPLICATIONS.—An eligible local applicant that desires to receive a subgrant under this section shall submit an application at such time, in such manner, and containing such information as the State may require.

(4) PRIORITY.—In awarding subgrants under this subsection, a State shall give priority to applications that—

(A) demonstrate the greatest need according to the results of the State’s conditions for learning survey; and

(B) propose to serve schools with the highest concentrations of poverty, based on the percentage of or number of eligible students eligible to receive a free or reduced price lunch under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

(iii) not less than 20 percent of the

(2) drug testing programs; or

(3) the development, implementation, or enforcement of zero-tolerance discipline policies, other than those enumerated under the Gun-Free Schools Act (20 U.S.C. 7151 et seq.).

SEC. 6. FUNDS RESERVED FOR SECRETARY.

(1) E STABLISHMENT OF PERFORMANCE METRICS.—The Secretary, acting through the Director of the Institute of Education Sciences, shall establish program performance metrics to measure the effectiveness of the activities carried out under this Act.

(2) ANNUAL REPORT.—Each State that receives a grant under this Act shall prepare an annual report to the Secretary, which shall include information relevant to the conditions for learning, including on progress towards meeting outcomes of the metrics established under paragraph (1).

SEC. 7. PROHIBITED USES OF FUNDS.

No funds appropriated under this Act may be used to pay for—

(1) school resource officer or other security personnel salaries, metal detectors, security cameras, or other security-related salaries, equipment, or expenses;

(2) drug testing programs; or

(3) the development, implementation, or enforcement of zero-tolerance discipline policies, other than those enumerated under the Gun-Free Schools Act (20 U.S.C. 7151 et seq.).

SEC. 8. FEDERAL AND STATE NONDISCRIMINATION LAWS.

Nothing in this Act shall be construed to invalidate or limit nondiscrimination principles or rights, remedies, procedures, or legal standards available to victims of discrimination under any other Federal law or any State law or policy, or to establish the rights, remedies, procedures, or legal standards provided by the Rehabilitation Act of 1973 (29 U.S.C. 794), and the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act $1,000,000,000 for fiscal year 2012 and such sums as may be necessary for each of the 5 succeeding fiscal years.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 173—DESIGNATING THE WEEK OF MAY 1 THROUGH MAY 7, 2011, AS ‘NATIONAL PHYSICAL EDUCATION AND SPORT WEEK’

Ms. KLOBUCHAR (for herself and Mr. THUNE) submitted the following resolution; which was referred to the Committee on the Judiciary:

8. RES. 173

Whereas a decline in physical activity has contributed to the unprecedented epidemic of childhood obesity, which has more than tripled in the United States since 1980;
Whereas regular physical activity is necessary to support norma... health and well-being of children;
Whereas according to the Centers for Disease Control, overweight adolescents have a 70 to 80 percent chance of becoming overweight adults, increasing their risk for chronic disease, disability, and death;
Whereas physical activity reduces the risk of heart disease, high blood pressure, diabetes, and certain types of cancer;
Whereas children can no longer be referred to as “late in life” or “adult onset” diabetes because type 2 diabetes presently occurs among children as young as 10 years old;
Whereas the Physical Activity Guidelines for Americans issued by the Department of Health and Human Services recommend that children engage in at least 60 minutes of physical activity on most, and preferably all, days of the week;
Whereas according to the Centers for Disease Control, only 19 percent of high school students are meeting the goal of 60 minutes of physical activity each day;
Whereas children spend many of their waking hours, as a result, that would be active during the school day to meet the recommendations of the Physical Activity Guidelines for Americans;
Whereas nationally, according to the Centers for Disease Control, 1 out of 4 children does not attend any school physical education classes, and fewer than 1 in 4 children get 20 minutes of vigorous activity every day;
Whereas teaching children about physical education in sports not only ensures that the children are physically active during the school day, but also educates the children on how to be physically active and the importance of physical activity;
Whereas according to a 2006 survey by the Department of Health and Human Services, 3.8 percent of elementary schools, 7.9 percent of middle schools, and 2.1 percent of high schools provide daily physical education (or an equivalent) for the entire school year, and 22 percent of schools do not require students to take any physical education courses at all;
Whereas according to that 2006 survey, 13.7 percent of elementary schools, 15.2 percent of middle, and 50 percent of high schools provide physical education (or an equivalent) at least 3 days per week for the entire school year for students in all grades in the school;
Whereas research shows that fit and active children are more likely to thrive academically;
Whereas increased time in physical education classes can help the attention, concentration, and achievement test scores of children;
Whereas participation in sports teams and physical activity clubs, often organized by the school and run outside of the regular school curriculum, are grade points, school attachment, educational aspirations, and the likelihood of graduation;
Whereas participation in sports and physical activity improves self-esteem and body image in children and adults;
Whereas children and youths who partake in physical activity and sports programs have increased motor skills, healthier lifestyles, social skills, a sense of fair play, strong teamwork skills, self-discipline, and avoidance of risky behaviors;
Whereas certain social and environmental factors affecting children are in the control of the adults and the communities in which the children live, and therefore, the people of the United States, collective intervention in reversing the childhood obesity epidemic;
(2) recommended that data sharing should not be restricted without demonstrating specific problems with the operation of current agreement; Now, therefore, be it

Resolved--That the Senate--

(1) acknowledges the grave threat posed by terrorists and other dangerous criminals who seek to exploit international aviation to do harm to our country;

(2) urges the Department of Homeland Security to reject any efforts by the European Union to modify existing PNR data sharing mechanisms in a way that would degrade the usefulness of the PNR data for identifying terrorists and other dangerous criminals;

(3) urges the Department of Homeland Security to not enter into any agreement that would impose European oversight structures on the United States; and

(4) opposes any effort by the European Union to interfere with counterterrorism cooperation and information sharing between the Department of Homeland Security and non-European countries.

AMENDMENTS SUBMITTED AND PROPOSED
SA 319. Mr. REID (for Mr. LUGAR) proposed an amendment to the resolution S. Res. 153, recognizing the 25th anniversary of the Chernobyl nuclear disaster.

TEXT OF AMENDMENTS
SA 319. Mr. REID (for Mr. LUGAR) proposed an amendment to the resolution S. Res. 153, recognizing the 25th anniversary of the Chernobyl nuclear disaster; as follows:

In paragraph (2) of the resolving clause, strike "" and insert "".

The amendment (No. 319) was agreed to, as follows:

(Purpose: To amend the resolving clause)

In paragraph (2) of the resolving clause, strike "" and insert "".

The amendment was agreed to, as follows:

The resolution, as amended, was agreed to.

The preamble was agreed to.

The resolution, as amended, with its preamble, reads as follows:

S. Res. 153

WHEREAS, the Chernobyl Forum's examination of the catastrophe has contributed to the understanding of the effects caused by the nuclear disaster;

WHEREAS, the Chernobyl Forum found that more than 5,000,000 people lived in ""contaminated areas"" in Ukraine, Belarus, Russia, and other countries;

WHEREAS, the lives and wellness of people in the affected areas continue to be impacted by the catastrophic Chernobyl nuclear disaster;

WHEREAS, the government of the United States, the people of the United States, and the governments and NGOs have provided contributions to humanitarian organizations to address the effects of the Chernobyl disaster;

WHEREAS, the Chernobyl Shelter Fund (CSF) was established in December 1997 by the G7, in cooperation with Ukraine;

WHEREAS the purpose of the CSF has been to construct a safe confinement over the damaged Chernobyl Unit 4 and to convert the site to a stable and environmentally safe condition;

WHEREAS the Nuclear Safety Account (NSA), supported by the United States and 16 other donors, finances the Interim Spent Fuel Storage Facility that allows for the decommissioning of Chernobyl Units 1 through 3;

WHEREAS April 26, 2011, is the 25th anniversary of the Chernobyl nuclear disaster; and

WHEREAS the ongoing crisis in Japan at the Fukushima nuclear power plant serves as a reminder to the United States and the international community of the need to make strong commitments to nuclear security throughout the world; Now, therefore, be it

Resolved, That the Senate--

(1) recognizes the 25th anniversary of the Chernobyl nuclear disaster and the courage of the Ukrainian people in persevering to address the consequences of the disaster;

(2) commends efforts to mitigate the consequences of the Chernobyl nuclear disaster; and

(3) requests that the Secretary of the Senate transmit an enrolled copy of this resolution to the Ambassador of Ukraine to the United States.

ORDERS FOR TUESDAY, MAY 10, 2011

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m. tomorrow, Tuesday, May 10, that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day; that following any leader remarks the Senate proceed to a period of 30 minutes of questions and answers with the first hour equally divided and controlled between the leaders or their designees, with the majority controlling the first 30 minutes and the Republicans controlling the next 30 minutes.

Finally, I ask unanimous consent that the Senate recess from 12:30 p.m. until 2:15 p.m. tomorrow for the weekly caucus meetings.

The PRESIDING OFFICER. Without objection, it is so ordered.
ORDER FOR ADJOURNMENT

Mr. REID. Mr. President, if there is no further business, to come before the Senate, I ask unanimous consent that it adjourn under the previous order following the remarks of Senator ISAKSON of Georgia.

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

The Senator from Georgia.

CONGRATULATIONS TO KEITH HATCHER

Mr. ISAKSON. Mr. President, I rise on a point of personal privilege to commend a gentleman from Georgia, Mr. Keith Hatcher.

Twenty-five years ago, when I worked with my father—my father, among other things, was the past president of the Georgia Association of REALTORS. I remember one afternoon he came into my office and said: Son, we just hired someone today who is going to be special. His name is Keith Hatcher. I want you to be sure and look him up the first time you get a chance.

Well, about a week later I met Keith. I was a member of the Georgia Legislature, and I showed him around a little bit. He became the assistant to John Cox, who had been the venerable representative of the REALTORS for years in that State. I saw that spark in Keith Hatcher’s eye, and I knew he was going to be a great one, and a great one he has been.

In his 25 years representing the Georgia association and landowners and homeowners around our State, he has fought hard for limitations and curbs on the power of eminent domain, fought hard for lower ad valorem taxes and transfer taxes, and fought hard for reform of landlord-tenant laws. He has worked day in and day out for the landowners of our State and for the REALTORS of our State, and he has done it in the most professional, comprehensive way anybody could possibly do it.

He has another great story to tell. Keith faced a significant health hazard just a few years ago. He was about to lose a kidney, and he could have lost his life, but he went through a transplant program in Birmingham, AL. The transplant was successful, and he rehabsituated himself. Today, he works as hard as he did before the injury. Importantly, he works as a member of the board of the National Kidney Foundation helping to raise money to support the transplant program so others who are afflicted as he was will have the same cure he has had.

So this week, as the REALTORS from Georgia come to town, as I think they will from every other State of the Union, to talk to the Members of the Senate about laws that affect their industry and their profession, the one from Georgia will be led by Keith Hatcher. As he has for the last 24 years, he will be a voice for home ownership, a voice for lower taxation, and a voice for wide distribution and ownership of land, which makes the United States of America the most unique country of any on the face of this Earth. I am pleased to commend him today on the celebration of his 25th anniversary representing the Georgia Association of REALTORS.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

PROFIT OVER HEALTH

Mr. BROWN of Ohio. Mr. President, yesterday across this country, we celebrated Mother’s Day, marking the contribution of mothers across our country. But 2 months ago, the health of tens of thousands of expectant mothers and their unborn children was threatened by a drug company putting profit over public health. Two months ago, there were doubt about the cost of a drug, a hormone, progesterone, to prevent premature births went from approximately $10 a dose—20 doses are needed through the course of a pregnancy—to $1,500 per dose. The entire cost of the treatment for premature birth, therefore, was about $200 three months ago. Two months ago, it went to $30,000—$200 to $30,000.

This was once an affordable, common treatment to help women facing high-risk labor. I visited Toledo Children’s Hospital, MetroHealth in Cleveland, and St. Elizabeth’s Health Center in Youngstown to hear directly from patients and physicians and hospital executives about how the outrageous price increase affects them. Patients and physicians and hospital executives explained what it was like to overcome the cost of a drug hormone, progesterone, to prevent premature births went from approximately $10 a dose to $1,500 per dose. The entire cost of the treatment for premature birth, therefore, was about $200 three months ago. Two months ago, it went to $30,000—$200 to $30,000.

This is an exorbitant increase which makes the United States of America the most unique country of any on the face of this Earth. I am pleased to commend him today on the celebration of his 25th anniversary representing the Georgia Association of REALTORS.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

It so ordered.
Something is very wrong when a company with limited R&D investments can grossly overprice a drug that in its absence virtually guarantees an increase in premature births.

Think of the greed involved here. They paid a million of dollars to do a clinical trial, which was a good thing. They then brought the price from $10 to $1,500—times 20, again, with the number of doses people need in their treatment. With an initial investment of less than $200 million, for they would have reaped over $3 billion in revenue. Those are the kinds of numbers they were operating on, as if that is fair.

When a company used taxpayer-funded research to produce a drug so important that it reduces infant mortality and birth defects, that company should also take on the responsibility for pricing it in a reasonable manner. But prices should never be inflated, particularly on a public health drug where this company did not do the basic foundational research; all it did was pay for clinical trials that did not prove much more than we already knew. A company should never be allowed to inflate prices of a public health drug to reap these kinds of massive profits, nor should the FDA approval process ever be manipulated to achieve that same end, which it was.

While balancing the benefits of corporate profit—and I understand the balance, and I want the companies to continue and move ahead—while it can be challenging balancing corporate earnings and societal benefits, we can’t lose sight of our responsibility to make innovative medicines available and accessible to as many people as possible.

I would like to close with a story about why all this matters. Not too long ago—last month, I guess it was, early April—I was in Port Columbus International Airport about to fly to Washington when Karen Turano, whom I never met before, walked up to me to share her story. She has since e-mailed after our discussion where she talked about this drug, and she sent me this letter:

I met you at the Columbus airport with my husband Thad and our 17-month-old son Ryker. Again, I just wanted to say thank you for the work you are doing to make the progesterone shots affordable again.

Our son was born August 18, 2008. I prematurely went into labor at 24 weeks and had an emergency C-section. Ryker. Again, I just wanted to say thank you for helping Ryker and husband Thad and other family and friends—and she does with Tyler in her memory. I thank Karen for sharing her story and the patients who endured Cleveland, Youngstown, and across our Nation and State who have spoken about this, who deserve the affordable and accessible treatment they need. I am optimistic we can continue to find ways to ensure that the majority of women in this country will still have access to affordable versions of this critical lifesaving injection. It should not take public outrage, it should not take congressional action, it should not take the FDA altering a policy it normally doesn’t alter for a company to do the right thing.

Mr. President, as you know, with the unemployment in your State and the unemployment in my State and the problems we have as a nation on so many levels, this is particularly outrageous because this progesterone is a public health pharmacy compound that has worked and meant many more women will have safe births with growing, healthy children, contrasted with, if they do not have the opportunity to get it at a reasonable rate, at a reasonable price, we know what happens then. But rest assured, we will keep up the outrage, and we will continue to move through Congress, if that is what it takes, to get progesterone at an affordable price to America’s women.

It is an outrage what KV Pharmaceuticals did. I applaud the FDA for changing its policy to make it more accessible.

I ask KV Pharmaceuticals to again come to the table. Instead of lobbying Congress to get their way and make a huge amount of money on a relatively small investment, I ask them to come to the table and work with us so we can make this very important pharmacy compound accessible to all American women whose doctors prescribe it to them.

I yield the floor.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

The PRESIDING OFFICER (Mr. MERKLEY). Under the previous order, the Senate stands adjourned until 10 a.m. tomorrow.

Whereupon, the Senate, at 6:58 p.m., adjourned until Tuesday, May 10, 2011, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate:

DEPARTMENT OF DEFENSE

Barbara K. McQuiston, of California, to be an Assistant Secretary of Defense (New Position)

DEPARTMENT OF STATE

Michael H. Cohen, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Malawi

William M. Mosk, of North Carolina, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Alternate Representative of the United States of America for Special Political Affairs in the United Nations

Jeanine R. Jackson, of Wyoming, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Moldova

Jeffrey D. Delaurentis, of New York, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Alternate Representative of the United States of America to the Republic of Moldova

The JUDICIARY

Laura A. Coberly, of the District of Columbia, to be a Member of the Board of Directors of the Children’s Defense Fund—California, of Washington, D.C.

The NAVY

The following nominated officer for appointment in the Navy is hereby designated as Rear Admiral, to be rear admiral in the Navy.

To be rear admiral

Rear Adm. (L) William E. Legher, of the United States Navy, to be an Alternate Judge for the Fifth Circuit, Vice Jacques L. Winner, Jr., Retired.

To be rear admiral

Rear Adm. (L) Donald E. Gaddes, of the United States Navy, to be a rear admiral in the Navy.
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<td>EDDIE L. OSBORNE</td>
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<td>JAMIE C. VALE</td>
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<td><strong>THE FOLLING NAMED OFFICERS FOR APPOINTMENT TO THE GRADES INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C. 5301 ET SEQ.</strong></td>
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TO THE GRADE INDICATED IN THE UNITED STATES ARMY

The following named officers for appointment to the grade indicated in the United States Army under Title 10, U.S.C., Section 624:

To be major
Executive Message transmitted by the President to the Senate on May 9, 2011 withdrawing from further Senate consideration the following nomination:

PAUL M. TIAO, OF MARYLAND, TO BE INSPECTOR GENERAL, DEPARTMENT OF LABOR, VICE GORDON S. HEDDELL, RESIGNED, WHICH WAS SENT TO THE SENATE ON JANUARY 26, 2011.
SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, aged to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This system requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, May 10, 2011 may be found in the Daily Digest of today's Record.

MEETINGS SCHEDULED

MAY 11

10 a.m. Appropriations
Department of Defense Subcommittee
To hold hearings to examine proposed budget estimates for fiscal year 2012 for the Guard and Reserve.
SD-192

Finance
To hold hearings to examine the United States-Colombia Trade Promotion Agreement.
SD-215

Health, Education, Labor, and Pensions
Primary Health and Aging Subcommittee
To hold hearings to examine diverting non-urgent emergency room use, focusing on if it can provide better care and lower costs.
SD-430

Homeland Security and Governmental Affairs
Business meeting to consider S. 772, to protect Federal employees and visitors. Improve the security of Federal facilities and authorize and modernize the Federal Protective Service, S. 550, to improve the provision of assistance to fire departments, S. 792, to authorize the waiver of certain debts relating to assistance provided to individuals and households since 2005, S. Res. 174, expressing the sense of the Senate that effective sharing of passenger information from inbound international flight manifests is a crucial component of our national security and that the Department of Homeland Security must maintain the information sharing standards required under the 2007 Passenger Name Record Agreement between the United States and the European Union, H.R. 793, to designate the facility of the United States Postal Service located at 12781 St. Francis Drake Boulevard in Inverness, California, as the "Specialist Jake Robert Velloz Post Office", S. 349, to designate the facility of the United States Postal Service located at 4865 Tallmadge Road in Rootstown, Ohio, as the "Marine Sgt. Jeremy E. Murray Post Office", and S. 455, to designate the facility of the United States Postal Service located at 95 Dogwood Street in Cary, Mississippi, as the "Spencer Byrd Powers, Jr. Post Office".
SD-342

Appropriations
Departments of Labor, Health and Human Services, and Education, and Related Agencies Subcommittee
To hold hearings to examine proposed budget estimates for fiscal year 2012 for the National Institutes of Health.
SD-124

Foreign Relations
Near Eastern, South and Central Asian Affairs Subcommittee
To hold hearings to examine human rights and democratic reform in Iran.
SD-419

10:15 a.m. Judiciary
Antitrust, Competition Policy and Consumer Rights Subcommittee
To hold hearings to examine the AT&T/T-Mobile merger.
SD-226

1:30 p.m. Armed Services
Personnel Subcommittee
To resume hearings to examine the Active, Guard, Reserve, and civilian personnel programs in review of the Defense Authorization Request for fiscal year 2012 and the Future Years Defense Program.
SR-232A

2 p.m. Commerce, Science, and Transportation
To hold hearings to examine manufacturing our way to a stronger economy.
SR-253

Rules and Administration
Business meeting to consider the nomination of William J. Boarman, of Maryland, to be Public Printer, Government Printing Office, S. Res. 116, to provide for expedited Senate consideration of certain nominations subject to advice and consent, and S. 739, to authorize the Architect of the Capitol to establish battery recharging stations for privately owned vehicles in parking areas under the jurisdiction of the Senate at no net cost to the Federal Government.
SR-301

Armed Services
Strategic Forces Subcommittee
To hold hearings to examine military space programs in review of the Defense Authorization Request for fiscal year 2012 and the Future Years Defense Program; with the possibility of a closed session in SVC-277 following the open session.
SD-106

Commission on Security and Cooperation in Europe
To hold hearings to examine Central Asia and the Arab spring, focusing on growing pressure for human rights and whether the factors that drove the uprisings in North Africa and the Middle East exist in any of the Central Asian States.

2:30 p.m. Energy and Natural Resources
National Parks Subcommittee
To hold hearings to examine S. 114, 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 conduct a study of potential land acquisitions, S. 127, to establish the Bufalo Bayou National Heritage Area in the State of Texas, S. 140, to designate as wilderness certain land and inland water within the Sleeping Bear Dunes National Lakeshore in the State of Michigan, S. 161, to establish Pinnacles National Park in the State of California as a unit of the National Park System, S. 177, to authorize the Secretary of the Interior to acquire the Gold Hill Ranch in Coloma, California, S. 247, to establish the Harriet Tubman National Historical Park in Auburn, New York, and the Harriet Tubman Underground Railroad Historic Site in Caroline, Dorchester, and Talbot Counties, Maryland, S. 279, to direct the Secretary of the Interior to carry out a study to determine the suitability and feasibility of establishing Camp Hale as a unit of the National Park System, S. 392, to authorize the Secretary of the Interior to issue right-of-way permits for a natural gas transmission pipeline in non-wilderness areas within the boundary of Denali National Park, S. 313, to authorize the Secretary of the Interior to issue permits for a microhydro project in non-wilderness areas within the boundaries of Denali National Park and Preserve, S. 429, to authorize the Secretary of the Interior to issue land for Denali National Park and Preserve from Doyon Tourism, Inc, S. 429, to establish the First State National Historical Park in the State of Delaware, S. 463, to amend the Wild and Scenic Rivers Act to designate segments of the Molalla River in the State of Oregon, as components of the National Wild and Scenic Rivers System, S. 494, to modify a land grant patent issued by the Secretary of the Interior, S. 508, to establish the Chimney Rock National Monument in the State of Colorado, S. 535, to authorize the Secretary of the Interior to lease certain lands within Fort Pulaski National Monument, S. 545, to designate the Valles Caldera National Preserve as a unit of the National Park System, S. 599, to establish a commission to commemorate the sesquicentennial of the American Civil War, S. 713, to modify the boundary of Petersburg National Battlefield in the Commonwealth of Virginia, S. 765, to modify the boundary of the Oregon Caves National Monument, S. 779, to authorize the acquisition and protection of nationally significant battlefields and associated sites of the Revolutionary War and the War of 1812.

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

Matter set in **this typeface** indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.
under the American Battlefield Protection Program, S. 849, to establish the Waco Mammoth National Monument in the State of Texas, and S. 858, to authorize the Secretary of the Interior to conduct a special resource study to determine the suitability and feasibility of designating the Colonel Charles Young Home in Xinia, Ohio as a unit of the National Park System.  

**MAY 12**

9:15 a.m.  
Foreign Relations  
To hold hearings to examine the situation in Libya.  
SD-419

9:30 a.m.  
Energy and Natural Resources  
To hold hearings to examine carbon capture and sequestration legislation, including S. 699, to authorize the Secretary of Energy to carry out a program to demonstrate the commercial application of integrated systems for long-term geological storage of carbon dioxide, and S. 797, to provide incentives to encourage the development and implementation of technology to capture carbon dioxide from dilute sources on a significant scale using direct air capture technologies.  
SD-366

Appropriations  
Transportation and Housing and Urban Development, and Related Agencies Subcommittee  
To hold hearings to examine proposed budget estimates for fiscal year 2012 for the Federal Aviation Administration.  
SD-138

9:45 a.m.  
Health, Education, Labor, and Pensions  
To hold hearings to examine the middle class, focusing on if the American dream is slipping out of reach for American families.  
SD-430

10 a.m.  
Banking, Housing, and Urban Affairs  
Business meeting to consider the nominations of Peter A. Diamond, of Massachusetts, to be a Member of the Board of Governors of the Federal Reserve System, David S. Cohen, of Maryland, to be Under Secretary for Terrorism and Financial Crimes, Daniel L. Glaser, of the District of Columbia, to be Assistant Secretary for Terrorist Financing, and Timothy M. Massad, of Connecticut, to be Assistant Secretary, all of the Department of the Treasury, and Wanda Felton, of New York, to be First Vice President, and Sean Robert Mulvaney, of Illinois, to be a Member, both of the Board of Directors of the Export-Import Bank of the United States; to be immediately followed by an oversight hearing to examine the Dodd-Frank implementation, focusing on monitoring systemic risk and promoting financial stability.  
SD-538

Commerce, Science, and Transportation  
To hold hearings to examine economic ramifications of cyber threats and vulnerabilities to the private sector.  
SR-253

Finance  
To hold hearings to examine oil and gas tax incentives and rising energy prices.  
SD-215

Judiciary  
Business meeting to consider S. 350, to require restitution for victims of criminal violations of the Federal Water Pollution Control Act, S. 623, to amend chapter 111 of title 28, United States Code, relating to protective orders, sealing of cases, disclosures of discovery information in civil actions, S. 899, “Fighting Fraud to Protect Taxpayers Act of 2011”, and the nominations of Henry F. Floyd, of South Carolina, to be United States Circuit Judge for the Fourth Circuit, Kathleen M. Williams, to be United States District Judge for the Southern District of Florida, Nelva Gonzales Ramos, to be United States District Judge for the Southern District of Texas, Richard Brooke Jackson, to be United States District Judge for the District of Colorado, Sara Lynn Darrow, to be United States District Judge for the Central District of Illinois, and Donald B. Verrilli, Jr., of the District of Columbia, to be Solicitor General of the United States, Department of Justice.  
SD-326

10:30 a.m.  
Appropriations  
Department of Defense Subcommittee  
To receive a closed briefing on the proposed budget estimates for fiscal year 2012 for the United States Special Operations Command, and the United States European Command.  
SVC-217

2 p.m.  
Banking, Housing, and Urban Affairs  
Housing, Transportation and Community Development Subcommittee  
To hold hearings to examine the need for national mortgage servicing standards.  
SD-538

2:30 p.m.  
Environment and Public Works  
Clean Air and Nuclear Safety Subcommittee  
To hold hearings to examine Federal efforts to protect public health by reducing diesel emissions.  
SD-406

Homeland Security and Governmental Affairs  
To hold hearings to examine ten years after 9/11, focusing on if intelligence reform is working.  
SD-342

Appropriations  
Legislative Branch Subcommittee  
To hold hearings to examine proposed budget estimates for fiscal year 2012 for the Senate, the Senate Sergeant at Arms, and the United States Capitol Police.  
SD-138

Armed Services  
SeaPower Subcommittee  
To receive a closed briefing on threats faced by our naval forces and the capabilities of our naval forces to respond to those threats in review of the Defense Authorization Request for fiscal year 2012 and the Future Years Defense Program.  
SVC-217

Intelligence  
To hold closed hearings to examine certain intelligence matters.  
SH-219

10 a.m.  
Foreign Relations  
To hold hearings to examine strategic implications of Pakistan and the region.  
SD-419

May 10  
Appropriations  
Department of Defense Subcommittee  
To receive a closed briefing the United States Northern Command (NORTCOM) and the United States Southern Command (SOUTHCOM).  
SVC-217

Homeland Security and Governmental Affairs  
To hold hearings to examine addressing the U.S. Postal Service’s financial crisis.  
SD-342

MAY 18  
10 a.m.  
Armed Services  
Readiness and Management Support Subcommittee  
SR-232A

Veterans’ Affairs  
To hold hearings to examine seamless transition, focusing on improving Veterans Affairs and Department of Defense collaboration.  
SR-418

2:30 p.m.  
Energy and Natural Resources  
Public Lands and Forests Subcommittee  
To hold hearings to examine S. 220, to provide for the reforestation of forest landscapes, protection of old growth forests, and management of national forests in the eastside forests of the State of Oregon, S. 270, to direct the Secretary of the Interior to convey certain Federal land to Deschutes County, Oregon, S. 271, to require the Secretary of Agriculture to enter into a property conveyance with the city of Wallowa, Oregon, S. 278, to provide for the exchange of certain land located in the Arapahoa-Roosevelt National Forests in the state of Colorado, S. 292, to resolve the claims of the Bering Straits Native Corporation and the State of Alaska to land adjacent to the Fairweather Fringe in the State of Alaska and to provide for the conveyance to the Bering Straits Native Corporation of certain other public land in partial satisfaction of the land entitlement of the Corporation under the Alaska Native Claims Settlement Act, S. 322, to expand the Alpine Lakes Wilderness in the State of Washington, to designate the Middle Fork Snoqualmie River and Pratt River as wild and scenic rivers, S. 382, to amend the National Forest Ski Area Permit Act of 1986 to clarify the authority of the Secretary of Agriculture regarding additional recreational use of National Forest System land that is subject to ski area permits, and for other permits, S. 427, to withdraw certain land located in Clark County, Nevada, from location, entry, and patent under the mining laws and disposition under all laws pertaining to mineral and geothermal leasing or mineral materials, S. 546, to provide for the conveyance of certain Bureau of Land Management land in Mohave County, Arizona, to the Arizona Game and Fish Commission, for use as a public shooting range, S. 566, to provide for the establishment of the National Volcano Early Warning System.
and Monitoring System, S. 590, to convey certain submerged lands to the Commonwealth of the Northern Mariana Islands in order to give that territory the same benefits in its submerged lands as Guam, the Virgin Islands, and American Samoa have in their submerged lands, S. 607, to designate certain land in the State of Oregon as wilderness, to provide for the exchange of certain Federal land and non-Federal land, S. 617, to require the Secretary of the Interior to convey certain Federal land to Elko County, Nevada, and to take land into trust for the Te-moak Tribe of Western Shoshone Indians of Nevada, S. 683, to provide for the conveyance of certain parcels of land to the town of Mantua, Utah, S. 684, to provide for the conveyance of certain parcels of land to the town of Alta, Utah, S. 667, to establish the Rio Grande del Norte National Conservation Area in the State of New Mexico, S. 729, to validate final patent number 27-2005-0081, S. 766, to provide for the designation of the Devil’s Staircase Wilderness Area in the State of Oregon, to designate segments of Wassen and Franklin Creeks in the State of Oregon as wild rivers, S. 696, to amend the Public Land Corps Act of 1993 to expand the authorization of the Secretaries of Agriculture, Commerce, and the Interior to provide service opportunities for young Americans; help restore the nation's natural, cultural, historic, archaeological, recreational and scenic resources; train a new generation of public land managers and enthusiasts; and promote the value of public service, and S. 897, to amend the Surface Mining Control and Reclamation Act of 1977 to clarify that uncertified States and Indian tribes have the authority to use certain payments for certain noncoal reclamation projects and acid mine remediation projects.

May 9, 2011

MAY 19

10 a.m.
Foreign Relations
To hold hearings to examine evaluating goals and progress in Afghanistan and Pakistan.

SD–419

MAY 24

10 a.m.
Foreign Relations
To hold hearings to examine al Qaeda, the Taliban, and other extremist groups in Afghanistan and Pakistan.

SD–419

MAY 25

10 a.m.
Homeland Security and Governmental Affairs
To hold hearings to examine how to save taxpayer dollars, focusing on case studies of duplication in the Federal government.

SD–342

10:30 a.m.
Appropriations
Department of Defense Subcommittee
To receive a closed briefing on the United States Central Command (CENTCOM) and United States African Command (AFRICOM).

SVC–217

JUNE 15

10:30 a.m.
Appropriations
Department of Defense Subcommittee
To hold hearings to examine the Secretary of Defense and the Chairman of the Joint Chiefs of Staff.

SD–192

JUNE 16

10:30 a.m.
Energy and Natural Resources
To hold hearings to examine proposed budget estimates for fiscal year 2012 for the Missile Defense Agency.

SD–192

2:30 p.m.
Energy and Natural Resources
Public Lands and Forests Subcommittee
To hold hearings to examine S. 233, to withdraw certain Federal land and interests in that land from location, entry, and patent under the mining laws and disposition under the mineral and geothermal leasing laws, S. 375, to authorize the Secretary of Agriculture and the Secretary of the Interior to enter into cooperative agreements with State foresters authorizing State foresters to provide certain forest, range, and watershed restoration and protection services, S. 714, to reauthorize the Federal Land Transaction Facilitation Act, and S. 730, to provide for the settlement of certain claims under the Alaska Native Claims Settlement Act.

SD–366
HIGHLIGHTS

Senator-designate Dean Heller, of Nevada, was adminstered the oath of office by the Vice President.

Senate

Chamber Action

Routine Proceedings, pages S2755–S2813

Measures Introduced: Seventeen bills and two resolutions were introduced, as follows: S. 910–926, and S. Res. 173–174.

Measures Reported:

S. 498, to ensure objective, independent review of task and delivery orders, with an amendment. (S. Rept. No. 112–16)

Measures Passed:

25th Anniversary of the Chernobyl Nuclear Disaster: Committee on Foreign Relations was discharged from further consideration of S. Res. 153, recognizing the 25th anniversary of the Chernobyl nuclear disaster, and the resolution was then agreed to, after agreeing to the following amendment proposed thereto:

Reid (for Lugar) Amendment No. 319, to amend the resolving clause.

Swearing in of Senator Heller: Senator-designate Dean Heller, of Nevada, was sworn in to fill the vacancy created by the resignation of John Ensign.


Nominations Received: Senate received the following nominations:

Barbara K. McQuiston, of California, to be an Assistant Secretary of Defense.

Michael H. Corbin, of California, to be Ambassador to the United Arab Emirates.

Jeffrey DeLaurentis, of New York, to be Alternate Representative of the United States of America for Special Political Affairs in the United Nations, with the rank of Ambassador.

Jeffrey DeLaurentis, of New York, to be an Alternate Representative of the United States of America to the Sessions of the General Assembly of the United Nations, during his tenure of service as Alternate Representative of the United States of America for Special Political Affairs in the United Nations.

Jeanine E. Jackson, of Wyoming, to be Ambassador to the Republic of Malawi.

William H. Moser, of North Carolina, to be Ambassador to the Republic of Moldova.

Matthew H. Tueller, of Utah, to be Ambassador to the State of Kuwait.

Laura A. Cordero, of the District of Columbia, to be a Member of the Board of Trustees of the Harry S Truman Scholarship Foundation for a term expiring December 15, 2015.

Stephen A. Higginson, of Louisiana, to be United States Circuit Judge for the Fifth Circuit.

1 Marine Corps nomination in the rank of general.

19 Navy nominations in the rank of admiral.

Routine lists in the Air Force and Army.

Nomination Withdrawn: Senate received notification of withdrawal of the following nomination:
Paul M. Tiao, of Maryland, to be Inspector General, Department of Labor, which was sent to the Senate on January 26, 2011.

Adjournment: Senate convened at 2 p.m. and adjourned at 6:58 p.m., until 10 a.m. on Tuesday, May 10, 2011. (For Senate’s program, see the remarks of the Majority Leader in today’s Record on page S2801.)

Committee Meetings

Committee on the Judiciary: Committee ordered favorably reported the nominations of Bernice Bouie Donald, of Tennessee, to be United States Circuit Judge for the Sixth Circuit, Virginia A. Seitz, of the District of Columbia, and Lisa O. Monaco, of the District of Columbia, both to be an Assistant Attorney General, and Denise Ellen O’Donnell, of New York, to be Director of the Bureau of Justice Assistance, all of the Department of Justice.

Committee on Appropriations: Subcommittee on Department of Homeland Security, to hold hearings to examine proposed budget estimates for fiscal year 2012 for the Coast Guard, focusing on an examination of operational and recapitalization requirements, 10 a.m., SD–138.


Committee on Banking, Housing, and Urban Affairs: to hold hearings to examine reviewing the Financial Crisis Inquiry Commission’s final report, 10 a.m., SD–538.

Committee on Commerce, Science, and Transportation: to hold hearings to examine the Transportation Worker Identification Credential Program, 2:30 p.m., SR–253.

Committee on Energy and Natural Resources: to hold hearings to examine new developments in upstream oil and gas technologies, 10 a.m., SD–366.

Committee on Finance: to hold hearings to examine perspectives on deficit reduction, focusing on Social Security, 10 a.m., SD–215.

Committee on Foreign Relations: to hold hearings to examine steps needed for a successful 2014 transition in Afghanistan, 10 a.m., SD–419.


Committee on the Judiciary: Subcommittee on Privacy, Technology and the Law, to hold hearings to examine protecting mobile privacy, focusing on smartphones, tablets, cell phones and privacy, 10 a.m., SD–226.
Select Committee on Intelligence: to hold closed hearings to examine certain intelligence matters, 2:30 p.m., SH–219.

House

Committee on Energy and Commerce: Full Committee, begin markup of the following: H.R. 5, the Help Efficient, Accessible, Low-cost, Timely Healthcare (HEALTH) Act of 2011; and H.R. 908, the Full Implementation of the Chemical Facility Anti-Terrorism Standards (CFATS) Act, as reported by the Subcommittee on Environment and the Economy, 4 p.m., 2123 Rayburn.


Committee on Oversight and Government Reform: Full Committee, hearing entitled “The Future of Capital Formation,” 12:30 p.m., 2154 Rayburn.

Committee on Rules: Full Committee, hearing on H.R. 1231, Reversing President Obama’s Offshore Moratorium Act, 5 p.m., H–313 Capitol.

Correction to the schedule for the week

Committee on House Administration: May 11, Subcommittee on Oversight, hearing entitled “GPO—Issues and Challenges: How will GPO Transition to the Future?” 1:30 p.m., 210 Cannon.
Next Meeting of the SENATE
10 a.m., Tuesday, May 10

Senate Chamber

Program for Tuesday: Senate will be in a period of morning business until 5 p.m.
(Senate will recess from 12:30 p.m. until 2:15 p.m. for their respective party conferences.)

Next Meeting of the HOUSE OF REPRESENTATIVES
12 noon, Tuesday, May 10

House Chamber

Program for Tuesday: To be announced.