The Senate met at 10 a.m. and was called to order by the Honorable Jon Tester, a Senator from the State of Montana.

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

Let us pray.

Almighty God, who inhabits eternity, whose throne is in Heaven, whose footstool is Earth, You are worthy to receive our gratitude, worship, and praise. We thank You for Your gracious mercy and forgiveness when we fail and sin. We praise You for Your grace, which is lavished upon us despite our indifference, our pride, and our selfishness. Lord, we worship You, we adore You, we glorify You. We humble ourselves before You. Let Your presence be felt today on Capitol Hill. Inspire our lawmakers to be examples in their words, faith, and purity. May this be a day in which Your love is expressed in their attitudes and actions. You are worthy, Lord God of the universe, world without end. Amen.

PLEDGE OF ALLEGIANCE
The Honorable Jon Tester led the Pledge of Allegiance, as follows:

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

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

The legislative clerk read the following letter:

U.S. Senate, President pro tempore, Washington, DC, September 16, 2008.
To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable Jon Tester, a Senator from the State of Nevada, to perform the duties of the Chair.

Robert C. Byrd, President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER
The Acting President pro tempore. The majority leader is recognized.

THE ECONOMY
Mr. Reid. Mr. President, on the morning of October 30, 1929, President Herbert Hoover awoke the day after the biggest one-day stock market crash in American history, surveyed the state of the U.S. economy and declared:

The fundamental business of this country, that is production and distribution of commodities, is on a sound and prosperous basis.

In the coming weeks and months after that, President Hoover remained in an economic bubble, unaware of the extreme suffering of ordinary Americans—even declaring that anyone who questioned the state of the economy was a "fool."

For Herbert Hoover, I guess ignorance was bliss. It wasn't until the American people replaced this out-of-touch Republican President with a Democrat, Franklin Delano Roosevelt, that our Nation's economic recovery began. Yesterday, nearly 80 years after the Hoover administration took America with blissful ignorance into a depression, the Dow Jones industrial average dropped 504 points—the biggest one-day decline since trading opened after the attacks of 9/11.

With one major investment bank headed for bankruptcy, and another sold at a bargain-basement price, and one of the world's largest insurance companies teetering, investors rushed to sell their shares, and not only in America but all over the world.

With our financial markets reeling, the American people are wondering whether they will lose their jobs, whether they will be able to pay their child's next tuition bill, and whether their pension and retirement savings will be safe, or even whether their bank will survive.

There is no reason to think we are headed into an economic depression. I believe there is no reason to panic. Yet one Senator—John McCain—woke up yesterday morning, surveyed the state of the U.S. economy, summoned the ghost of his fellow Republican Herbert Hoover, and declared:

The fundamentals of our economy are strong.

For whom are the fundamentals of our economy strong? Certainly not the 606,000 American people who have lost their jobs this year. Certainly it is not strong for the commuters and truckers who are sending more and more of their hard-earned dollars overseas to pay for fuel. Certainly our economy is not strong for those struggling to make one paycheck last until the next, with record home heating prices looming in the coming winter months, and the price of oil teetering around $4 for a gallon of gasoline. It is not strong for the cities and towns that have been forced to cut back on police, schools, and firefighters because their tax base is shrinking. Certainly it is not strong for the millions of families who have or may soon lose their homes, or the tens of millions who are seeing their home equity plummet.

No matter what George Bush, John McCain, or the ghost of Herbert Hoover may think, this economy is not strong, and the American people deserve better.

This is not a time for panic, but it is a time to look back on the past 8 years of the Bush-Hoover-McCain economics and figure out what brought us to this point so we don't repeat the same mistakes.

The tragic truth is this disaster was avoidable. In its palpable disdain for
all things relating to government, the Bush-Cheney administration willfully neglected the Government’s most important function, which is to safeguard the American people from harm—not only physical harm but economic harm.

In their simplistic philosophy of “big business equals good, government equals bad,” the administration and the Republican Congress failed to conduct oversight, and let the financial sector go wild.

Without anyone regulating their actions, market excess destroyed the financial prudence that allowed a firm such as Lehman Brothers to prosper for 158 years. Vast fortunes were made virtually overnight, and now vast fortunes have been literally lost overnight. Yesterday, we heard that Hewlett-Packard laid off 25,000 people. There is some talk that their customers may buy them, so instead of losing 25,000 jobs, they will only lose 15,000 jobs. I hope that is the case for those 10,000.

The unfortunate irony is that the Bush administration’s zeal to favor big business has crippled it and left the American people to pay the price. President Bush did nothing to stop this disaster, and now he will leave the mess to the next President.

Now our Nation must decide who is better suited to end the Bush-Hoover economy and return sanity and security to our economy.

Senator McCain says the economy is not his strong suit. That is an understatement. That is what he said about himself. So John McCain went searching for an economic adviser who could bolster his weakness. Who did he choose? Phil Gramm. I served with Phil Gramm in the Senate—the same Phil Gramm who was responsible for deregulation in the financial services industry that paved the way for much of this crisis to occur. I like Phil Gramm, but I don’t like economics.

A respected economist at the University of Texas, James K. Galver, said that Gramm was: “the most aggressive advocate of every predatory and rapacious element that the financial sector has” and that “he’s sorcerer’s apprentice of instability and disaster in the financial system.”

It was Phil Gramm who pushed legislation through a Republican Senate that allowed firms such as Enron to avoid and destroy the life savings of its employees, and it was Phil Gramm’s legislation that now has Wall Street traders to bid up the price of oil, leaving us to pay the bill.

Warren Buffett called the results of Gramm’s legislation “financial weapons of mass destruction.” That is what Warren Buffett said.

And now the architect and leading cheerleader for every mistake and neglect that created the Bush-Cheney finance is whispering into the ear of John McCain, who says he doesn’t know much about the economy. I repeat, that is an understatement.

Whether you call it Hoover economics, Bush economics, or McCain economics, it is not a recipe for change; it is a recipe for more of the same.

For all of the college students worried about finding a job, the working families now pay their bills—talking about families and jobs, a man is coming to visit me from Las Vegas. He has two sons who are so brilliant. One of them, a few years ago, was the only person in Nevada to get into Harvard. He had a perfect score in his SAT. He can’t find a job. He is a graduate, with honors, from one of our elite ivy league schools and he cannot find a job. His dad is coming to talk to me to see if I can help him. His other boy is still in college and, of course, worried, as I have indicated, about finding a job. Working families don’t know how they will pay their bills, and the fixed-income seniors are trying to figure out how to pay for medicine. We have to do better.

We cannot afford another Republican President who will follow his party’s ghosts down the path of recession, depression, and more suffering. We desperately need a President who understands that our industry, our workers, and our economy, are the backbone of our country and economy.

We need a President who will cut taxes for working people and senior citizens, end the windfall profits of oil companies, put money back into the pockets of those who are paying record prices at the pump, and put millions of Americans back to work by investing in jobs on Main Street, not Wall Street.

In November, we can elect a President who will break from the past and invest in the future, a person of change. But until then, the Senate should pass our tax extenders. We need to do that. If we want to jump-start the economy, let’s extend tax extenders for renewable energy. In the State of Montana, the State of the President’s father, we cannot pass renewable energy a job creator. On August 18 and 19, I had an energy summit in Las Vegas. We had Democrats, Republicans, academics, and people from the industry. I talked to the Governor from Colorado and asked him how his State is doing. He said they are not being hit as hard as others because they are creating thousands of jobs in renewable energy. That is what the future holds for us. We need to pass the energy tax extenders. I hope we can work something out with the Republicans to pass other tax extenders for more than 1 year. We have to get away from the 1-year deal. Let’s do them for 2 years so that people in the private sector can look at Congress as a friend. I hope we can do that.

I also think we have to take a look at a stimulus package that funds infrastructure projects and new jobs, prevents cuts in desperately needed State services, invests in renewable energy, expanded unemployment benefits for victims of this administration’s economy, and helps working people and senior citizens afford the costs of energy.

I think the House of Representatives will pass the stimulus bill in the coming days. I hope that today they pass the Energy bill. As I indicated to the distinguished Republican leader, we are going to finish this Defense authorization as soon as we can. I hope to get cloture on it this afternoon.

I hope the unanimous-consent request Senator Levin will offer around 11 o’clock—whenever we finish morning business—will be accepted. When we finish that, I think there is an agreement between the Republican leader and me that we are going to go to the tax extenders, renewable first. We have to have a vote on AMT. We are going to vote on the other tax extenders. That will be helpful. It sets a great pattern for what we need to do here. I hope the House follows suit and takes care of that business.

We are going to now have a period for morning business, with Senators allowed to speak for up to 10 minutes each, as soon as the Republican leader finishes his statement, if he has one. The Republicans will control the first 30 minutes, and the majority will control the second 30 minutes. Following morning business, the Senate will resume consideration of S. 3001, the national defense authorization bill. The managers are working through filed amendments to the bill. Senators should be on notice that the chairman has shared a proposed unanimous consent agreement with Republicans and will ask for consent prior to the caucus recess. If we are unable to reach agreement, at 3 p.m. the Senate will proceed to a cloture vote on the bill, with the final 30 minutes equally divided and controlled by the two leaders, with the majority leader controlling the final 15 minutes. Senators have until 12 noon to file second-degree amendments to the Defense bill.

I will finally say that under the regular procedure, we would have a cloture vote an hour after we come into session. But I had a conversation with the Republican leader last evening, and we felt it would be best to wait until after our caucus so people understood how important this Defense authorization bill is and how Senator Warner and Senator Levin have tried hard to work through all these amendments. Hopefully, we can get cloture invoked and work on the amendments that are available postcloture and finish this bill, say, 9:30 tomorrow morning, something like that. I hope that can be the case.

RESERVATION OF LEADER TIME

The Acting President pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The Acting President pro tempore. Under the previous order, there
will now be a period for the transaction of morning business for 60 minutes, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled by the two leaders or their designees, with the first half of the time under the control of the Republican leader or his designee and the second half of the time under the control of the majority leader or his designee.

The Senator from Missouri.

ENERGY

Mr. BOND. Mr. President, we have heard a very powerful Presidential campaign speech by my good friend the majority leader. He asked what has brought us to this point. What has brought us to the point that farmers are suffering, families are suffering, truck drivers are suffering—all of us are suffering from the high prices of energy.

It should be no secret to anybody who knows what is going on around here that for the last 20 years, my colleagues on the other side of the aisle have instituted a policy of “don’t drill, don’t mine, don’t develop our natural resources.” Our gas and oil prices have gone through the roof because we have artificially constrained the amount of energy we can produce.

What we are asking for and the American people have been told that every time I go home is some common sense. Impose our good, strong environmental regulations. We have the strongest environmental regulations of any nation on the Earth on producing oil and gas. We can pay high sums of ransom to foreign powers, such as Hugo Chavez in Venezuela or Vladimir Putin in Russia or Ahmadinejad in Iran, and get oil and gas that has not been produced with the same environmental protections we have.

Today, the price of oil is only $92 per barrel. A gallon of gas on Friday, before Hurricane Ike, averaged only $3.65. It has come down some now with the unwinding of the Lehman investments in long-term energy futures. But the problem is still there. We have not solved the problem. We have taken some steps that I believe will give the market some encouragement. But if you think oil at only $92 per barrel is good enough, if you think gas falling to $3.65 a gallon is good enough, then you must be one of these people who support the Pelosi plan, the Gang of 10 proposal. You must be one of those people who think we can get away with crimping our retirement funds. Missouri farmers are still struggling with the high fuel costs they pay to run their farm equipment. Dairy producers are struggling with the surcharges they pay to ship their milk to markets. Our food processors in Missouri and across the Nation are struggling with high transportation costs to obtain their raw goods. Grocers in Missouri and across the Nation are still struggling with higher prices. That is the high cost of the price of food—the off-farm fuel costs that go to transportation, driving, and other procedures. And Missouri truckers are suffering from high diesel costs. Missouri airline workers are struggling because of the high jet fuel costs. So why would anyone think that just a little price relief is OK? Why would anyone think we just have to lower gas prices a little bit? Our families don’t just deserve a little relief; our families deserve as much gas price relief as we can give them. Our truckers don’t deserve just a little relief; they deserve as much diesel relief as we can give them. Our farmers don’t deserve just a little relief; our farmers deserve as much fuel price relief as we can give them. That is why we should not open just a little bit of offshore oil production. We should open as much new offshore oil production as we can, have it produced in an environmentally responsible manner to drive oil and gas prices as far down as we possibly can to provide as much relief to families and workers as we can.

The proposal we will consider from the Gang of 10 will not open as much new offshore oil as we can, so it will drive down oil and gas prices as much as we can. It plans to open a handful of sites in south Florida to offshore production, but it leaves closed to the American people east coast and Northeast States. It leaves the entire Pacific coast of America closed. Seventy percent of America’s offshore areas, off lower 48 States, would still be closed to the American people and the energy they need under the Gang of 10 plan. Eighty-five percent of offshore areas are currently off limits. The Gang of 10’s articulated plan is to provide relief to the American people.

On the other side, the Speaker’s plan does not provide relief to the American people either. It opens certain areas of the east and west coasts of America but does so only outside the 50 miles from shore.

There is a funny little statistic that most people would not believe, and that is that most of the oil off the Pacific west coast is less than 25 miles off the shore. More of it is within 50 miles of the shore. So no more than 3 to 5 percent of the oil off California and the Gulf of Mexico is on the shelf. It leaves closed to the American people the eastern half of the Gulf of Mexico where almost all of the new oil in the east coast lies.

So the Pelosi plan may well be described as opening everywhere that oil is not and leaving closed and off limits to the needs of the American people everywhere the oil is. The plan will do almost nothing to bring the American people gas price relief.

Let me talk about the Gulf of Mexico. We wish everyone—Texas, Louisiana, across that part of the country—Godspeed in their recovery. We prayed for you during the storm. We now pray for you as you put your lives back together. But we are also putting the Nation’s oil infrastructure back together. Hurricane Alley, as the western Gulf of Mexico is often known, is also the port of entry for 64 percent of our imported oil and most of our refineries. Rolling right down Hurricane Alley, Hurricane Ike has shut down 63 percent of our oil rigs, idled 73 percent of our gas output, closed 8 refineries, and stopped 96 percent of gulf oil output. Mother Nature can only tell us we asked for it by concentrating so much oil production in the western gulf, by concentrating so much oil refining in the western gulf, by forcing so much oil importation through the western gulf.

We have only ourselves to blame when we keep other parts of our ocean closed to production. We have only ourselves to blame when we keep the other parts of our shores closed to refining. We have only ourselves to blame when prices spike 17 cents in a weekend, as they did over this weekend. We have only ourselves to blame if we continue the Democratic policies of “don’t drill, don’t refine, don’t use nuclear resources.” And if we vote for proposals that still keep most all of our shores off limits, we will have only ourselves to blame for not providing American families, workers, and small businesses the relief they need. We will have only ourselves to blame if we do not provide American families the relief they deserve.

I urge our colleagues to consider American families when we vote to give them as much energy, gas, oil relief as we can. Not just a little bit more relief but a lot more relief, finding not just a little bit of oil production but as much new oil production as
we can. Our American workers, American farmers, American small businesses—all of us in our American economy deserve no less. We must produce what we have, and we must do it now.

Mr. President, I yield the floor.

The Acting President pro tempore. The Senator from Colorado.

Mr. ALLARD. Mr. President, I thank the Senator from Missouri for his comments this morning. I, too, wish to make some comments about our energy problems we are having in this country.

Before the August recess, I and many of my Republican colleagues came to the floor of this great body to make the case for a sound national policy that would make a difference to millions of Americans struggling with high energy prices.

We just heard the majority leader mention price of oil has critical problem in America. But, unfortunately, instead of dealing with this issue, it was set aside by the majority party in favor of a recess, and like the recess enjoyed by millions of American schoolkids, this is an opportunity for the majority party to run away from the hard work waiting for them on their desks on energy.

When or if we move to the energy debate again, I am hopeful we will be able to accomplish something. This is especially important because this will likely be the last opportunity for many months to offer relief to millions of Americans struggling with high fuel prices. It is relief to commuters, school carpoolers, relief for farmers, it is relief for small businesses, grocery shoppers, and all across the spectrum of American life where higher prices mean budget problems.

The price of oil has dropped from its summer high, and that is good, but the fundamental truth remains: America does not control its energy sources. Americans rely on overseas energy, and we pay billions and billions for it. We see that in countries that sponsor terrorism, which creates additional problems for the security of this country.

Our precarious position comes to everyone’s realization when we deal with an interruption in energy. My esteemed colleague from Missouri just finished talking about the impact of Hurricane Ike and how it has had an effect, and that is when Americans realize what precarious our energy supplies are in too few communities.

For weeks now, dating back to before the August recess, Republicans have been pushing and prodding the Democrats in an effort to address this growing crisis. I suspect that during the August recess Democrats got an earful from their constituents on energy. The citizens of this country told them to release areas off the coast for domestic exploration. They told them to open sections of ANW2 on the millions of barrels of oil and gas supplies. I heard those same concerns raised when I was back in my State during the summer.

Mr. President, the American people have spoken, and it is high time the Democratic Congress started to listen. We must open the Outer Continental Shelf for exploration. Unfortunately, Congress has enacted appropriations riders to prevent the Interior from conducting activities related to production of oil and natural gas on much of the Outer Continental Shelf every year since 1982. The current congressional moratorium under which we are operating 86 percent of America’s Outer Continental Shelf lands off-limits for exploration. No other country does that. Fortunately, the current moratorium is set to expire at the end of this current fiscal year; that is, September 30 of this year. In July, President Bush lifted the executive moratorium leaving only the congressional appropriations Outer Continental Shelf moratorium standing in the way of increased U.S. energy production. I encourage our Democratic Congress to let that moratorium lapse. With the high cost of fuel, we must allow American companies to seek out new sources of energy off our coastal regions.

In conjunction with offshore exploration, we must open vital areas of Alaska and the West. Recently, in my home State of Colorado, the Roan Plateau was finally opened to the bidding process, and I am pleased the Bureau of Land Management was able to move forward in expediting the new lease sale. This sale was important for the people of Colorado because it will generate millions of dollars of revenue for our State. But more importantly, Mr. President, the Roan Plateau development is one of the most environmentally conscious plans ever created, representing almost a decade of collaboration between local, State, and Federal officials. Also, more importantly, is what the Roan Plateau lease sale means for people around the Nation who have worked for the State of Colorado and its natural gas resources on the Roan Plateau will help secure the midrange future energy needs of our Nation.

The development of the Roan Plateau will be conducted in a staged approach in order to minimize wildlife habitat fragmentation, disturbances, and to encourage innovation in reclaiming many of our disturbed areas. The Roan Plateau is an example of how we can strike a balance between energy development and environmental protections.

While additional production of traditional oil sources is vital, we in Congress must continue to provide incentives for implementation of renewable energy and for the infrastructure necessary to support them. Our fossil fuels have become a bridge to better technology and much of what lies in the area of renewable energy. This is a necessary step in balancing our domestic energy portfolio, increasing our Nation’s energy security, and advancing our economic prosperity.

The American people deserve an energy policy that calls for funding more domestic energy sources, including oil, natural gas, clean coal, nuclear, as well as renewable resources and new energy efficiency technologies while not forgetting the conservation aspect of our energy problem and doing everything we can to develop precious energy supplies. By investing in renewable energy research and development today, we will actually be saving money in future energy costs.

Energy runs the world in which we live, so without affordable, accessible sources of energy we open ourselves to dangers we simply should not allow to happen. I believe renewable energy and energy-efficient technologies help offset fuel imports, create numerous employment opportunities, develop our domestic economy, and enhance and create export opportunities. In addition, renewable energy and energy-efficient technologies provide clean, inexhaustible energy for millions of consumers.

But renewable energy alone is not enough. We still need additional sources of domestic energy. Mr. President, I disagree with my own Governor from the State of Colorado and the points he was making at the majority leader’s energy conference in Nevada, where he stated that renewable energy was the main reason we were having many job opportunities and why our economy was doing well in Colorado. There is no doubt that the renewable energy effort in Colorado has created more jobs. It has created some diversity in our economy, and that is good. But it is the oil and gas industry that has provided the revenues for the State of Colorado and will continue to do it for some time. If we push too hard and too quickly to go to renewable energies before that industry has matured, we will create additional economic problems not only for the State of Colorado but for this country, fascinating when one looks at the retirement portfolio for the employees of the State of Colorado. A large percentage of that revenue and that portfolio is coming from oil and gas companies. It is helping provide for the future retirement of employees who have worked for the State of Colorado. So although renewable energy is beginning to play a larger and more important role in the State of Colorado, it is not ready to replace the huge amount of revenue oil and gas is producing for my State.

One of the most promising sources of domestic energy in the Nation is found in my State of Colorado, and that is oil shale. This shale could easily yield 800 billion barrels of oil, which is more than the entire proven reserves of Saudi Arabia. Now, the estimates on the oil shale in Colorado and Utah and Wyoming are estimated up to 2 trillion, but 800 billion seems as though it is the minimum amount that most people believe can be brought on line with the new technologies we have in oil shale, which, by the way, is environmentally favorable.
Unfortunately, we can’t even begin to move toward assessing this unparalleled resource because Democratic obstructionism has effectively put this resource out of reach. Any Member of Congress who refuses to consider comprehensive solutions that include reducing consumption while increasing domestic supplies is ignoring the needs of this country.

I am very hopeful that within the next few weeks we will be able to find a commonsense approach to our energy crisis that addresses the basic economic law of supply and demand. It is simple: If we increase our supply while reducing demand, energy prices will go down. We shouldn’t forget that we live in a supply-and-demand economy.

So, Mr. President, I urge the majority leader, and I urge the majority party to quickly get us on the issue of energy and onto reasonable commonsense solutions to move us forward. This country is dependent on our doing the right thing on energy because it is such an essential part of our economy. It builds into all levels of manufacturing, it builds into each individual American’s life, and it is a driving factor when we talk about the inflation that is happening right now in our economy.

So, Mr. President, let’s move forward. Let’s do something about the energy crisis we have in this country, and let’s not let the current election year environment in this country disrupt our effort to do what is best in making sure we have a safe and secure country and a secure economy.

Mr. President, I yield the floor, and I ask unanimous consent that the remainder of the Republican time be reserved.

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

The Senator from Washington.

OIL MARKET SPECULATION

Ms. CANTWELL. Mr. President, as I rise to speak this morning, for the first time since April 1, the price of oil has fallen to below $100 a barrel, and that is certainly a welcome relief to many Americans across this country and to businesses who have been devastated by high energy markets.

We shouldn’t underestimate the damage that’s been caused. Just this past Friday, in my home State of Washington, Alaska Air announced that more than 1,000 people will lose their jobs because of high fuel prices and a slowing economy. Compared to last year, Americans have paid $76 billion more for gasoline. In 2008, and I know many people went without vacations, and businesses have cut back on their operations.

Now, we have had various independent studies that have shown that the fluctuation in price from 2007 to 2008 cannot be explained by simple supply-and-demand fundamentals. And we are having a hearing at 2:30 this afternoon in the Energy Committee about excessive speculation and how prices were driven to record highs this summer. But what we need to also realize is the scrutiny Congress has placed on Wall Street along with the promise to have stricter oversight has had an impact on the volume of capital starting to leave these markets.

It wasn’t that long ago when President George Bush was picked up on the Internet at a reception saying “Wall Street got drunk.” Now, I don’t know if the President meant to have this video publicly captured on the Internet, but it was, and I know afterwards his Press Secretary was quoted as saying:

“Well, you know, I actually haven’t spoken to him about this, but I imagine what he meant, as I have heard him describe it before in both public and private, was that Wall Street let themselves get carried away and that they did not understand the risks these newfangled financial instruments would pose to the markets.

And while it is Wall Street that has gotten drunk, it is the American public paying for the hangover.

Today, we are struggling to contain one of the most severe credit crises since the Great Depression, and American families are going to pay dearly for that lack of oversight and regulatory indifference to what have been critical markets for us to oversee. I give credit to Secretary Paulson for his swift action over the last couple of weeks to contain the economic fallout from a reeling Wall Street.

During the past decade, the agencies charged with financial oversight have turned their eyes from what has been one of the worst excesses our country has seen. My question for my colleagues today is, when are we going to learn the lessons of history and make sure Congress does its job in the oversight of the regulatory agencies so they do theirs?

In many ways, today’s super-bubbles are a repeat of the 1920s when too much borrowing to underwrite too many speculative bets using too much of other people’s money drove the entire economy for a crash. In 1999, Congress repealed key parts of the Glass-Steagall Act of 1933. The repeal allowed banks to operate any kind of financial businesses with comparable protections in advance, or only after a bubble bursts.

The proliferation of these newfangled financial instruments has resulted in huge profits and losses without any physical goods changing hands.

Like before, much of this mess can be traced back to the deregulation of the savings and loans which gave these associations many of the capabilities of banks, but failed to bring them under the same regulations.

Congress eliminated regulations designed to prevent lending excesses and minimize failures.

Deregulation allowed lending in distant loan markets on the promise of higher returns, and it also allowed associations to participate in speculative construction activities with builders and developers who had little or no financial stake in the projects.

The ultimate cost of this crisis is estimated to have totaled around $160 billion, with U.S. taxpayers bailing out the institutions to the tune of $125 billion. This, of course, added to our deficit of the early 1980s.

I ask my colleagues: When are we going to learn this lesson?

We have failed to see that oversight and transparency are always critical parts of any functioning market.

We have failed to see that when Congress makes reforms, like the Commodities Futures Modernization Act in 2000, or like the repeal of key portions of the Glass-Steagall Act in 1999, or the deregulation of the energy markets in

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the 1990s, they cannot disregard these important fundamentals of transparency and strong Federal oversight authority. I could go on and on for my colleagues on my own personal experience with Enron, which was just another commodity. But it is really a very critical element to our economy.

Many experts cautioned that electricity was too vital a part of our economy and way of life to let these markets go without the transparency and oversight that is essential.

We all know the rest of the story. We saw that deregulation set the table for some of Enron’s spectacular manipulation schemes of 2000 and 2001 among others, that caused more than $55 billion in economic loss and cost our nation over 589,000 jobs.

Again, only after the crisis was over, did Congress step in. Only after the crisis did Congress give the Federal Energy Regulatory Commission, and now the FTC, more regulatory authority on energy markets. And once more, Congress illustrated that it prefers to act after the fact.

So I ask my colleagues: When are we going to learn?

When are we going to quit deregulating these critical markets without much thought to the transparency and oversight that is critical for markets to operate and function correctly?

When are we going to learn that when we take our eye off the ball, Wall Street raids the cabinet and, as the President say, Wall Street gets drunk?

I mentioned that later today we will be holding a hearing in the Energy Committee to examine the oil futures market. We will examine why we need meaningful legislation to close the loopholes that exist in those dark markets.

This deregulation has helped spark today’s price super-bubble, as George Soros warned at a June 3 Commerce Committee hearing, that is driving our economy and way of life to let these markets go without the transparency and oversight that is essential.

We all know the rest of the story. We saw that deregulation set the table for some of Enron’s spectacular manipulation schemes of 2000 and 2001 among others, that caused more than $55 billion in economic loss and cost our nation over 589,000 jobs.

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So I ask my colleagues: When are we going to learn?

When are we going to quit deregulating these critical markets without much thought to the transparency and oversight that is critical for markets to operate and function correctly?

When are we going to learn that when we take our eye off the ball, Wall Street raids the cabinet and, as the President say, Wall Street gets drunk?

I mentioned that later today we will be holding a hearing in the Energy Committee to examine the oil futures market. We will examine why we need meaningful legislation to close the loopholes that exist in those dark markets.

This deregulation has helped spark today’s price super-bubble, as George Soros warned at a June 3 Commerce Committee hearing, that is driving our economy and way of life to let these markets go without the transparency and oversight that is essential.

We all know the rest of the story. We saw that deregulation set the table for some of Enron’s spectacular manipulation schemes of 2000 and 2001 among others, that caused more than $55 billion in economic loss and cost our nation over 589,000 jobs.

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So I ask my colleagues: When are we going to learn?
and conference report, setting up a conflict with the Executive order. Direction by Congress on the specific funding levels throughout the defense budget would be advisory only.

The President’s Executive order, on the other hand, would continue to require agency heads to ignore congressional funding directions unless it is in the text of bills enacted into law.

While I appreciate the efforts by our distinguished colleague from South Carolina and his concern about the use of the incorporation-by-reference technique which I opposed during committee markup, I am just as concerned about striking the reference to the funding tables in the bill and leaving them only in the committee and conference report, given the President’s Executive order. While the DeMint amendment would have the positive impact of making earmarks advisory only, it would also undercut the legal authority of every other congressional funding decision which differed from the President’s budget. In short, the DeMint amendment would seriously impair the ability of the Senate and Congress to meaningfully exercise the power of the purse. The Armed Services Committee and the Senate and Congress as a whole would lose the ability to direct and enforce cuts in funding, additions to funding that were, in our discretion, required in the President’s budget.

The amendment I have offered and wish to offer as an alternative to Senator DeMINT is No. 5569. My amendment takes the same approach which I argued during the committee markup. It takes the funding tables from our committee report and puts them directly into the bill text. The amendment is extraordinarily long. It goes on for 225 pages, but it complies with the Executive order in the most direct way possible. All of our funding decisions are transparent, and each item of funding is subject to further debate and amendment by the full Senate. If the funding decisions are adopted by the Senate and sustained through the conference between the two Houses, they will be included in the text of the bill as passed by Congress and presented to the President. Changes to the funding decisions recommended by the committee are subject to the normal process of amending a bill under the Senate rules and procedures.

I am aware if my amendment was adopted, it would increase the burden of producing our bill and conference report by several days. Many people would be involved in that rather arduous process. We are informed that the best estimate is that about 4 additional days would be required for the committee staff, the Government Printing Office, and supporting House and Senate staff to process the detailed data that appears in the funding tables, if they were incorporated into the bill, assuming the Government Printing Office could prioritize its attention and resources on our bill. By “prioritize,” I mean what other work from other committees of the Congress, House and Senate, would be before those various administrative sections.

Given to the contents we face, these 4 additional days add significantly to the challenges of completing a conference between the House and Senate and passing a conference report in both Chambers before the target date for fiscal year 2012. While I acknowledge these challenges, I believe my amendment will best comply with the Executive order and its laudatory purposes. We must not simply ignore the Executive order and trust the executive branch to follow congressional funding directions, when the President has emphatically said the Congress must express its direction in the text of bills enacted into law.

When Congress exercises its constitutional power of the purse, it should do so in a transparent way subject to full debate and amendment. When Congress speaks on its funding priorities, it should do so decisively, and its pronouncement should have the binding force of law subject only to the President’s veto.

The current posture is, this is an important issue. The distinguished chairman and I, together with our staffs, have worked on it. We have recognized the precarious ability of the bill in terms of having the ability to be put together, brought to the desk of Senators, and then, subsequently, the conference report, and likewise that being properly put together to comply with this amendment and others. It is a challenge. I have discussed it with the chairman. I guess perhaps being an optimist, I believe if my amendment were adopted, it would reach the result of many colleagues, and we could go forward and do our very best to shorten the time normally in the history of these bills that is used by the conference.

This is our 30th bill. Senator LEVIN is chairman of the conference this year. I would try in every way to support him, if he so desired to try to move, subject to the adoption of this amendment, this bill through the conference. This bill is so important to our country. It is so important to so many Members of our body. We have pending a managers’ amendment which it lessens our staff and our staffs have been working on for the last 4 or 5 days. It is close to 100 amendments which we have reconciled in such a way that, subject to UC, they could be adopted and immediately become a part of the bill prior to any closure action that will take place as scheduled at 3 o’clock today. That embraces the work and the desires and the objectives of so many Members.

I am not here to fault the fact that a hold or objection is put on UC to move that package is to state the fact. But that objection largely emanates from the issue which I have tried to describe in a very pragmatic and forthright way to help colleagues better understand the current procedural dilemma that faces the body with regard to the bill.

The committee and my distinguished colleagues will work as hard as we can to pass this bill through. This is one roadmap; there may be a better one.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Mr. LEVIN. Mr. President, I thank my friend from Virginia for outlining the history of this issue in which we are involved. I am particularly gratified that he now agrees the DeMint amendment will be a significant abdication of legislative power to the executive branch. The reason that would be true is, there would be no reference to the line items we have worked so hard on in law or by reference in law, and that would mean the only thing that would be remaining would be a committee report that has all the work of our committee, not just the earmarks which we have added but also the lines we have added or subtracted to what the President has requested. That is the essential point relative to the DeMint amendment. It is an absolutely revolutionary change in the powers of the purse, shifting a great deal of that power to the executive branch.

I am delighted the Senator from Virginia has stated it exactly that clearly, or approximately that clearly, so that, hopefully, we can, if not unanimously but on a bipartisan basis defeat the DeMint amendment, if it is offered. Then the question comes up: How can we then incorporate all our effort in committee into the law? There is a lot of problems with doing it, which we pointed out during the committee debate, including the lack of flexibility that this would result in for the President in terms of reprogramming because every line becomes a program, and that means it would be harder to shift money within a program through reprogramming than it is between programs. That was an argument which we used in committee. We believe it is true that the executive branch will have less flexibility when it comes to reprogramming if every single line is in law. However, if that is what this body wishes to do—well then let us do so. If the President to offer reprogramming suggestions—that is a problem the executive branch should have, not ours.

Our problem is it would be difficult, if not impossible, to get a conference report—first of all, it is difficult enough to get to conference, but then it would be extremely difficult, if not impossible, to bring a conference report back in the next couple weeks. We have gone through these numbers with the minority. We have a clear assessment of the Government Printing Office that it would add about 4½ days to their work if every single line were made part of the bill rather than being
simply incorporated by reference in the bill, as it now is. We should not take a chance on jeopardizing this bill. This bill is too important to be jeopardized.

The difference between incorporating all these lines by reference in the bill and simply printing them in the bill is either minor, minute or nonexistent legally. What this bill does is incorporate by reference all these lines. They are incorporate into the bill. They are transparent—as transparent as though they were printed in the bill. This green document is no less transparent than this white document. They are both equally transparent. The work of our committee is laid out in the moment in the green document. In this white document, which is the bill, we incorporate by reference in the bill all the line items so they are in the bill, and they can be changed by an amendment which says no money will be spent or less money will be spent for a particular item. It is very readily addressed by the Senate on the floor, even though they are incorporated by reference.

Now, this bill, as my good friend from Virginia says, is too important for us not to pass. We have never not passed an authorization bill, and this should not be the first year, when we have troops in harm's way, when we do not pass a Defense authorization bill. There are hundreds of provisions in here which directly affect the troops and their families. It would be unconscionable for us not to pass a Defense authorization bill. That is why I have been very concerned that the Senate which has the responsibility of being able to pass a Defense authorization bill, as it now is. We should not take a chance on jeopardizing this bill. This bill is too important to be jeopardized.

So then the question becomes: Is the nonexistent or minute difference between all these being here by law or actually printing them in here, should that risk the passage of this bill? They can be addressed by amendment on the floor of the Senate, even though they are incorporated by reference.

Now, this bill, as my good friend from Virginia says, is too important for us not to pass. We have never not passed an authorization bill, and this should not be the first year, when we have troops in harm's way, when we do not pass a Defense authorization bill. There are hundreds of provisions in here which directly affect the troops and their families. It would be unconscionable for us not to pass a Defense authorization bill. That is why I have been very concerned that the Senate which has the responsibility of being able to pass a Defense authorization bill, as it now is. We should not take a chance on jeopardizing this bill. This bill is too important to be jeopardized.

So that is the dilemma we are in. If the Warner amendment is adopted, it would seriously jeopardize the chances of being able to pass a bill, even if we can get to conference in the next couple of days. That assessment was made over the weekend in terms of the number of days' delay that would result. That assessment was made by the Government Printing Office. They spent 700 plus hours on the weekend to give us this assessment. This is not some casual assessment off the back of an envelope; this is a very serious assessment that was made at huge expense over the weekend in order to give us the most accurate idea as to what the delay would be if we had to print each one of those thousands of lines in the bill itself, instead of incorporating them in the bill by reference. We should not jeopardize the passage of this bill.

That is the only difficulty I now have as a legislator with the Warner amendment. The other difficulty, which we pointed out in committee, has to do with the lack of flexibility that would result to the executive branch in their reprogramming requests. That is a problem the executive branch needs to face, I would think, but as a legislator, what we have to protect is the power of our purse. We have to be able to make changes. That is protected in the Warner amendment.

What the Warner amendment does is put at risk this bill, as it may be physically impossible to get to conference, the conference report back by the end of next week. If we knew there was going to be a lameduck vote, there would be no problem because we could do this in a lameduck session no matter how much time it took between now and then, but we don't know that there will be a lameduck session.

So the question is whether we are willing to take this risk. I, for one, cannot in good conscience risk the passage of this bill, because we don't have any problem now with the Warner amendment in terms of its substance, it is what it would result in, in terms of the bill not being able to be adopted as a practical matter.

Mr. WEBB. With the DeMint amendment are very serious and severe. I hope that amendment is not offered, and if it is, I would hope, on a bipartisan basis, it would be rejected by a Senate which has the responsibility to abide by the Constitution of the United States and maintain the power of the purse.

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

Mr. WARNER. Mr. President, I am looking at a memorandum prepared by our staff, and I presume it has been shared with the chairman's staff. We should state to colleagues that what we learned by virtue of a long process that many people were involved in over the weekend is as follows:

In summary, incorporation of the funding tables into the bill would add about 4 days to the process: About a half day for committee staff to prepare the files for the GPO, although much could be done during the conference; 3 days for the GPO to convert the files and proofread them; and about half a day for the committee staff to proofread them when GPO returns the bill in printed form.

Let's sort of chart out a calendar. Today, we are, at the present time, scheduled to have a cloture vote, and if cloture comes about, there is an entirely different scenario, if it is voted in, by which we continue to address the bill. But by any chance we could reconcile our differences—and we would want Members to know that last night the majority presented to the minority a draft UC that is now being reviewed by my leadership. I am at this moment reasonably confident that decisions will be made or what options, other than what was presented to us, may be returned back by way of compromise. That is to take place in the coming hours, before 3 o'clock. But there is still the possibility that we could get a UC through that would resolve much of this problem. Then, if we took final passage, say, even late tonight—I mean if we can get the management of the time, and we have close to 100 amendments in addition to those already handled, and that package is basically equally divided with Republican and Democratic amendments—let's say we have final passage then tomorrow, the chairman then plot the timetable by which he used pretty strong language, that this amendment of mine jeopardizes the bill not being passed? Would the chairman give us his basic schedule?

Mr. LEVIN. I thank the Senator. Before I do that, Senator WEBB came to the floor when I assured him he would be able to discuss his amendment, and I am wondering if we could ask unanimous consent that Senator WEBB be recognized as soon as our colloquy is completed and then that Senator COLLINS be recognized after Senator WEBB.

Mr. WARNER. I was not present when either of these Senators approached me. If I am being advised by our cloakroom staff that Senator COLLINS came early this morning, at which time the assurance was given to her by someone that she could have 11:30. Now, I don't know quite how to sort this out.

Mr. LEVIN. I wonder if I could inquire of the Senator from Maine how much time she would be using.

Ms. COLLINS. Ten minutes.

Mr. LEVIN. If I could inquire of the Senator from Virginia how much time he would be using.

Mr. WEBB. About 10 minutes.

Mr. LEVIN. If either had said 9 minutes, they would have had a better case.

I wonder if the two Senators whom we referred to could get together and resolve this issue for us as to who would go first and who would go second. Could we ask the two Senators to perhaps help us out on that, and then I would ask that after we talk, if we could have a UC as to that procedure.

In terms of the schedule, assuming we could get the bill passed by tomorrow, which would probably be lucky because there are a number of amendments that are in that unanimous consent agreement that are referred to specifically that have time connected to them—if we could get this bill passed by tomorrow, or cloture invoked, then there is 30 hours of postcloture. We don't know whether that would be used by any of our colleagues. They have a right to do that, and around here, as we know, frequently that 30-hour period is used. If it is not used, we would then have to name conferees, which hopefully would be the Senate. Then the House reviews the Senate bill and determines the committee jurisdiction and names their conferees. That, at a minimum, is
Mr. LEVIN. Mr. President, I ask permission to preface my remarks by thanking the committee’s distinguished chairman, Senator LEVIN, for his leadership, and also Senator WARNER, who is taking on double duty, acting as the ranking Republican on the committee in the absence of Senator McCAIN. I want to take this opportunity to thank the senior Senator from Virginia for his years of service on the committee. He has been a true friend to me and to the members of our committee and the armed services of this Nation. With experience and wisdom, and, above all, his civility in all matters will be greatly missed. I deeply admire him, and I thank him for his leadership on this bill and on many other issues.

Mr. WARNER. Mr. President, I humbly thank my distinguished colleague and longtime friend. I am certain she can take my place.

Ms. COLLINS. I thank the Senator.

Mr. President, this legislation will provide additional equipment, and support to our troops as they engage in combat overseas and in exercises at home. It also offers an important opportunity for continued debate as to our Nation’s strategy in Iraq, especially the cost of reconstruction in Iraq.

I am particularly pleased the legislation we are now debating contains an amendment that Senators BEN NELSON, EVAN BATHY, and I offered to alleviate the burden on the American taxpayers of our operations in Iraq. It is time for the Iraqis to pay more of the costs of securing, rebuilding, and stabilizing their own country. During the Armed Services Committee markup, I joined Senators NELSON and BATHY in authorizing the provisions that are in this bill which shift to the Iraqi Government the costs of securing and rebuilding Iraq in order to lift that burden from the shoulders of the American taxpayers.

While our country is struggling with a soaring deficit, the Iraqi Government is awash in oil revenues. The Special Inspector General for Iraq Reconstruction has estimated that Iraq’s oil profits will reach $70 billion this year. That is far more than the Government of Iraq anticipated when it established its budget of $47 billion.

Similarly, on August 5, the Government Accountability Office issued a report that provided an in-depth examination of Iraqi revenues, expenditures, and surpluses. This GAO report underscores the need for our amendment requiring the Iraqi Government to assume greater responsibility for its own costs. The report verifies the stronger financial position of the Iraqis due to the anticipated windfall brought about by record-high oil revenues. According to the GAO, Iraq is likely to receive between $70 and $80 billion in revenues from oil sales in 2008 alone—twice the average of revenues between 2005 and 2007. Yet the Iraqis still have not adequately invested in reconstruction efforts in their own country. In fact, they have spent just 28 percent of the $12 billion investment budget.

In addition, the Iraqis had approximately $29 billion in surplus funds that actually went unused during the past 2 years. When Americans are struggling with the high cost of energy, a weakening economy, and a burdensome deficit, there is simply no reason for the American taxpayers to continue paying for the salaries, training, and equipping of Iraq’s security forces, or the cost of fuel in a country that has the second largest oil reserves and a burgeoning budget surplus.

Any bipartisan amendment would shift these costs to the Iraqis. Specifically, our amendment prohibits America’s tax dollars from being spent on major reconstruction projects in Iraq. It requires the Iraqis to assume the responsibility of paying for the salaries, training, and equipping of Iraq’s security forces, including the army, the police, and the Sons of Iraq; it initiates negotiations between our Government and the Iraqi Government on a plan to cover other expenses, such as the fuel used by American forces when they are in-country.

Our proposal was approved unanimously by the Senate Armed Services Committee, and it represents a significant bipartisan change in our policy in Iraq.

The fact is, the American taxpayers cannot wait for the administration to act. We must require this significant responsibility by changing the Iraqis to take more responsibility for their own security and for the reconstruction of their own country will give them a sense of ownership, and it makes common sense given Iraq’s growing budget surplus. That is the purpose of our provision, and I urge my colleagues to support the proposal that we have incorporated into the Defense Authorization bill.

The legislation before us also includes a strong commitment to strengthening Navy shipbuilding by including more than $14 billion for shipbuilding programs. It fully supports the Navy’s shipbuilding priorities. The legislation also recognizes the size of our forces is of great concern to me. This legislation is an important step toward reversing that troubling decline.

The Chief of Naval Operations, Admiral Roughead, has put forth a plan for a 313-ship Navy. It would address longstanding congressional concerns that naval shipbuilding has been inadequately funded. The instability and
inadequacy of previous naval shipbuilding budgets has had a number of troubling effects on our shipbuilding industrial base and has contributed to significant cost growth in the Navy's shipbuilding programs. The 313-ship plan, combined with more robust funding by Congress, will begin to reverse the decline in Navy shipbuilding.

This bill authorizes funding for construction of a third Zumwalt class destroyer. The DDG–1000 represents a significant advancement in Navy surface combatant technology. It is critical that the construction of the first two DDG–1000 destroyers continue on schedule without further delay. It is equally important that Congress provide full funding for the third ship.

The dedicated and highly skilled workers at our Nation's surface combatant shipyards, such as the Bath Iron Works in my great State of Maine, are simply too valuable to jeopardize with any delays in this program. To date, the Navy has spent more than $11 billion on research, development, detailed design, and advanced procurement for this program. In addition, industry, including not just our shipyards but also the multitude of vendors in over 48 States, has made significant investments in preparation for building this new class of ship. It is critically important in these tight budget times that we not throw away the investment our country has made in these shipyards.

Mr. President, as the threats from around the world continue to grow, it is vitally important that there not be a gap in shipbuilding that jeopardizes our industrial base. I am pleased with the funding provided in this bill. I look forward to resolving this important issue in conference.

Earlier this year, the Navy proposed to truncate the DDG–1000 program after just two ships. In July, after further evaluation, the Navy realized the terrible effect that such a decision would have on the industrial base and on our shipyards, in particular. It would have created a gap in work for Bath Iron Works because of the delays and costs inherent in restarting the DDG–51 line.

It is important to note that Bath Iron Works is prepared to build whatever ships the Navy needs, but that there must be a stable work plan to sustain the industrial base. The best way to achieve that goal, and to take advantage of the billions of dollars already invested in the DDG–1000, is to proceed with the third ship at this time even if the Navy ultimately decides to build more DDG–51s.

The House version of this bill would also replace the current Arleigh Burke class of amphibious ships with vessels built to current nuclear propulsion systems, even though the shipyard that currently builds those ships does not have either the facilities or certifications required to construct nuclear-powered ships. This would essentially increase the costs of future amphibious force vessels, with some estimates stating it could be as much as $800 million more per ship. This would reduce the overall number of ships that could be built at a time when the Navy is seeking to revitalize and modernize its fleet. It is completely contradictory to the Chief of Naval Operations 313-ship plan.

I am pleased that our Senate bill also includes funding for additional littoral combat ships. While this program has suffered a number of setbacks, the Navy, with the help of Congress, has taken significant steps in order to begin to get this program under control. The DDG–1000 is being built at a time when the Navy is in need of new destroyers to replace older destroyers.

The Senate’s fiscal 2009 Defense authorization bill also includes funding to continue the modernization program for the DDG–51 Arleigh Burke class destroyers. This program provides significant savings to the Navy by applying some of the technology that is being developed for the DDG–1000 destroyer and back-fitting the DDG–51, which may reduce the crew size by 30 to 40 sailors.

This bill provides the necessary funding for our troops and I offer it my full support.

Mr. WARNER. Mr. President, if I might ask my colleague for 30 seconds. I listened carefully to the Senator's thoughts on the Iraqi funding issue. I commend the Senate. We have amendments that address it. In the managers' package are certain amendments that the Senate from Maine put in. That is a very important issue. We owe no less responsibility to the American taxpayers but to assure that every single dollar going into that area at this time is absolutely essential for the purpose of the mission of our troops and otherwise, and that the Iraqi Government be made aware that there are a sovereign government now and such expenses as can be should be borne by that Government.

Ms. COLLINS. I thank the chairman. I agree with his comments. I am delighted with the support he and the chairman have given to this effort. I thank the Senator.

The ACTING PRESIDENT pro tempore. The junior Senator from Virginia is recognized.

Mr. WEBB. Mr. President, I ask unanimous consent to speak for up to 15 minutes on amendment No. 5499.

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

Mr. WEBB. Mr. President, I will begin by associating myself with many of the remarks made by the Senator from Maine. As someone who served as the Secretary of the Navy, along with the senior Senator from Virginia, I have strong feelings about the importance of the health of the Navy and the size of our fleet.

I introduced an amendment on Friday that I would like to urge my colleagues to examine and support. We are in an odd situation in the business of national defense. It is a moment in that the international authority for the United States to be operating in Iraq will expire at the end of this year. The U.N. mandate, through the U.N. Security Council, expires at that time.

Since last November, this administration has been negotiating what is called a Strategic Framework Agreement that is intended to replace the
international authority of that U.N. mandate. Two questions have come up, however, with respect to what the administration is doing. The first is the timeline. This is an agreement that, by all accounts, has not yet been fully negotiated. It is being negotiated by the administration, with the participation of the Congress, and there are indications from Iraq that the Iraqi Government negotiators themselves have serious questions that had not been anticipated at the beginning of this process. And we have every reason to believe, and even indications that the U.N. mandate will run out at the end of the year and there will not be an agreement in place that authorizes the presence of our forces in Iraq under international law.

The larger question is constitutional. What entity of the Federal Government has the authority to enter the United States into a long-term relationship with another government? Both of these are serious issues. I submit to Congress under domestic and international law that the United States to operate militarily—and quasi-militarily, by the way, given the hundreds of thousands of independent contractors that are now essentially performing military functions in that country.

There are questions about the process by which the U.S. Government decides upon and enters into long-term relations with another nation—any nation. In that regard, there are serious questions about the very working of the constitutional system of our Government.

This administration has claimed repeatedly since last November that it has the right to negotiate and enter into a Strategic Framework Agreement between the United States and Iraq at the end of this year when we have hundreds of thousands of Americans on the ground in that country.

And several other colleagues have been warning of this serious disconnect for 10 months. Many of us were trying to say last November that apparently the intention of this administration has been to proceed purely with an Executive agreement to drag this out until the Congress was going out of session, as we are about to do, and then to present essentially an agreement in that, with the expiration of the international mandate from the United Nations at the end of the year, something would have to be done, and that something would be an Executive agreement that to this point the Congress has not even been allowed to examine. We have not been able to see one word of this agreement.

We tried to energize the Congress. We met with all of the appropriate administration officials. There have been hearings after assurances from the administration that they will consult at the appropriate time, as they define it. We have seen nothing. And so we face with a situation that is something of a constitutional coup d'etat by this Administration.

I say to my colleagues that we all should be very concerned. At risk is a further expansion of the powers of the Presidency, the result of which would be to affirm in many minds that the President—someone who no longer needs the approval of Congress to enter into long-term relations with another country, in effect committing us to obligations that involve our national security, our economic well-being, and our diplomatic posture around the world without the direct involvement of the Congress. This is not what the Constitution intended. It is not in the best interest of the country.

This amendment, which I offered on Friday, is designed to prevent this sort of imbalance from occurring and at the same time it recognizes the realities of the timelines that are now involved with respect to the loss of international authority for our presence in Iraq at the end of this year.

The amendment is a sense of the Congress. On the one hand, it is a sense that we should work with the United Nations to extend the U.N. mandate up to an additional year, giving us some additional authority for being in Iraq, if needed, taking away the pressure of this timeline that could be used to justify an agreement that the Congress has not had the ability to examine, but also saying that an extension of the U.N. mandate would end at any time where a Strategic Framework Agreement and a Status of Forces Agreement between the United States and Iraq would be mutually agreed upon.

The amendment also makes the point that the Strategic Framework Agreement now being negotiated between the United States and Iraq poses significant, long-term national security implications for this country, and this would be the sense of the Congress. We need to be saying that. The Iraqis need to hear it from the Congress.

The amendment also puts Congress and the administration on record regarding the many assurances that the administration has given Congress that it will fully consult with the Congress with respect to all the details of the Strategic Framework Agreement and the Status of Forces Agreement and that copies of the full text of these agreements will be provided to a majority of the Senate.

It is important to say that the Strategic Framework Agreement that has been mutually agreed upon by the negotiators from our executive branch and the Iraqi Government officials will cease to have effect unless it is approved by the Congress. This amendment states that within 180 days of the entry into force of that agreement, the Congress would approve it. We are not calling for the full and complicated procedures of a treaty, but we are saying a majority of the Congress should approve any agreement that has been entered into.

On the one hand, this agreement recognizes the realities of where we are in terms of timelines, but on the other it protects the constitutional processes by which we are entering into long-term relations with other countries, whether it is Iran or any other country around the world.

We need, as a Congress, to preserve this process. It does not operate in a way that would disrupt our operations in Iraq. I urge my colleagues to join me on this amendment and protect the prerogatives of the Congress under the Constitution.

I understand this amendment will be included in the unanimous consent request that will come for a vote later today. I hope my colleagues will support me on it.

Mr. President, I yield the floor.

Mr. WARNER. Mr. President, if I may say, I have been viewing the two drafts of the UCs. Momentarily, I expect the chairman and I will decide how to deal with it. But I assure the Senator that the Webb amendment is in both drafts of UCs.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Mr. LEVIN. Mr. President, I commend Senator Web..S for this sense-of-the-Senate resolution. We have the assurance of the administration that they will share the text with the leadership of the Congress and with the chairmen and ranking members of the Senate and House Armed Services Committees and Foreign Relations Committees. But this goes beyond it and takes an essential step beyond that commitment.

We should be involved in this kind of a long-term relationship. I commend
the Senator from Virginia for his drafting of this amendment. It is very careful. I believe, based on the assurance of Senator Warner, that it will be included in any UC that is propounded. I hope that UC—any UC—can be adopted and that, indeed, it will include the Webb amendment as having the assurance of a vote.

Mr. WEBB. I thank the chairman and the senior Senator from Virginia.

The PRESIDENT pro tempore. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I ask the Chair to notify me when I have reached the 1-minute mark.

Mr. President, I first want to say, as I rise to support the National Defense Authorization Act of 2009 and honor all of our service members and their families who continue to serve and sacrifice for the sake of the country, that I am very appreciative of the leadership of both Chairman Levin and Senator Warner and, obviously, Senator McCain who has been absent some and Senator Warner has so ably filled in.

Chairman Warner will always be chairman. He has been my dear friend through many years. What a great service to our country this great American has provided in the true Virginia gentleman tradition. He has always been such an asset to this body and such an asset to our men and women in uniform. I thank Senator Warner for his great service, I thank him for his friendship, and I thank him for what he does every day for our men and women in uniform.

Mr. President, I humbly acknowledge the gracious remarks, and I express my appreciation.

Mr. CHAMBLISS. Mr. President, last week marked the seventh anniversary of the day our country was attacked by terrorists, resulting in the deaths of approximately 3,000 innocent people. Since that day and for the past 7 years, our Nation has devoted itself to winning the global war on terrorism.

It is important to remember how the commitment of our soldiers, airmen, sailors, and marines has inspired the Afghan and Iraqi people to build their own political framework, improve their security and infrastructure, and promote human rights, freedom, and democracy in their respective countries. I am proud to say that our commitment to and investment in the global war on terrorism is now bearing fruits that are leading to a safer and more democratic world.

All of our accomplishments in this area start with our servicemembers and their families who every day face the challenges, sacrifices, and dangers inherent in the profession of arms. Congested with providing the necessary resources, policies, and programs for our servicemembers and military departments in order to ensure their success.

Thus, the National Defense Authorization Act serves as the vehicle to do just that and provides the resources and policies to carry out the missions we ask of our military.

Specifically, the bill provides the following:

An increase of 7,000 soldiers, 5,000 marines, and 3,371 full-time personnel for the Army National Guard and Army Reserve over the 2008 force structure levels provided for all military personnel; a total of $125 billion for military personnel to improve allowances, bonuses, permanent change of station moves, and death benefits; reauthorization of over 25 types of bonuses and special pay to promote enlistment and continued military service; more rigorous oversight procedures for military housing privatization projects; and a report to Congress on the implementation of the Yellow Ribbon Reintegration Program.

I also have several amendments to the bill, all of which I understand will be included in a manager's package. I wish to discuss these amendments very briefly.

First, last year, I worked with many of my colleagues to include a provision in the National Defense Authorization bill allowing for members of the Guard and Reserve who deploy in support of a contingency operation to receive their retired pay early based on how much time they deploy. This year, Senator KERRY and I, along with 15 other Senators, have an amendment that would make this provision retroactive to include any duty performed after September 11, 2001.

This amendment recognizes a significant sacrifice made by members of the Guard and Reserve and their families who have made since 9/11 in answering the call of duty. It is only right that their duty and support of the global war on terrorism since September 11 be recognized and included when considering when they should receive retired pay. It is my hope we can keep this provision in conference and included in the final version of the bill.

Also for the Guard and Reserve, I have offered an amendment, cosponsored by my colleague MARK PRYOR from Arkansas, which would provide 180 days of transitional health care for members leaving active duty who agree to affiliate with the Guard and Reserve. An identical provision was sponsored and included in the House bill by my good friend Congressman SANFORD BISHOP from Georgia. This amendment provides a powerful incentive for members leaving active duty to join the Guard and Reserve and could result in several thousand more people entering the Guard and Reserve each and every year.

I ask unanimous consent to have printed in the RECORD a letter of support for this amendment from the Reserve Officers Association.

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


HON. SAXBY CHAMBLISS, Chairman of the Senate Reserve Caucus, Russell Office Building, Washington, DC.

DEAR SENATOR CHAMBLISS: The Reserve Officers Association, representing 65,000 Reserve Component members, supports Amendment S356 of the Senate Defense Authorization bill, S. 3001, which grants transitional health care to active duty personnel as they become a member of the armed forces reserve component.

It is important to reduce the barriers that prevent people from joining the National Guard or Reserve. Providing transitional TRICARE health coverage permits serving members and their families to continue with the same coverage they received while on active duty, and allow them time to qualify for TRICARE Reserve Select. Your amendment provides a recruiting incentive that helps the individual, his or her family and the armed forces.

Thank you for your efforts on this key issue, and other support to the military that you have shown in the past. Please feel free to have your staff call ROA’s legislative director, Marshall Hanson, with any question or issue you would like to discuss.

Sincerely,

DENNIS M. MCCARTHY, Lieutenant General USMC (Retired), Executive Director.

Mr. CHAMBLISS. Mr. President, another amendment I have offered to the bill, along with my colleague from Georgia, Senator ISAKSON, provides a sense of the Senate on the care of wounded warriors. Last year’s Defense Authorization bill contained the Wounded Warrior Act which went a long way to helping DOD and Department of Veterans Affairs establish a network of recovery care coordinators who would work to manage and coordinate care for recovering servicemembers. This is a powerful program and stands to make a huge impact in the lives of our wounded warriors. My amendment calls on DOD and the VA to expedite the recruiting, training, and hiring of these personnel, and also to partner with civilian institutions, such as the Medical College of Georgia School of Nursing, to help train these personnel and ensure they have access to the most up-to-date research and skills in order to best serve our wounded warriors.

Two other amendments I will mention briefly are first a sense of the Senate that the Air Force should conduct a robust demonstration of the SYERS system on the Joint STARS aircraft. SYERS would provide an expanded combat identification capability for Joint STARS and the Air Force should fully explore its utility and the possibility of incorporating SYERS on the entire Joint STARS fleet.

Second, I have offered an amendment that would require DOD to report to Congress on the requirement for Non-dual status National Guard technicians. These personnel are often used to backfill deploying Guard personnel, and due to the large number of deployments, we need to look at expanding the number of Non-dual status technicians as a means of ensuring the Guard’s home State missions are not neglected.
The National Defense Authorization Act is designed to strengthen our military, provide the required resources to the Department of Defense to carry out the responsibilities our Nation asks of them, and to improve our servicemembers' and their families' quality of life. The resources, legislation, and the funding priorities will ensure that our Nation maintains an adept and quality force to defend our country and allow us to continue to be an ambassador for a prosperous and peaceful world. I commend the chairman, the ranking member, and committee staff for their hard work on the bill and their diligence in bringing it to the floor.

Unfortunately, the bill does have several problematic provisions, including an unnecessary limitation on the role of private security contractors and an unnecessary prohibition on trained and qualified personnel conducting lawful interrogations. I hope we can address and resolve these issues in conference in a way that best serves our military personnel and allows them to effectively carry out their responsibilities.

I also hope the Senate can complete action on this very important piece of legislation and proceed to a House-Senate conference and passage of a conference report prior to the end of this month.

I yield the floor.

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

Mrs. FEINSTEIN. I thank the Chair.

The remarks of Senator FEINSTEIN pertaining to the introduction of S. 3493 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mrs. FEINSTEEN. Mr. President, I yield the floor.

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

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

The legislative clerk proceeded to call the roll.

Mr. LEVINE. 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.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURBIN. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. DURBIN. I ask unanimous consent to speak as in morning business.

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

The ECONOMY

Mr. DURBIN. Mr. President, we continue to read today, as we did yesterday, about dramatic changes in the American economy, particularly the problems facing many of our larger financial institutions.

Not that many weeks ago, the Federal Government stepped in when Bear Stearns was in a terrible economic state and took responsibility for that company. It was an extraordinary decision because this is a company that we had not regulated as a Federal Government, not one at least in detail. We knew their transactions and balance sheets, but we put the full faith and credit of the people of this country and our Treasury behind rescuing Bear Stearns.

Then a little over a week ago the decision was made by this administration to do the same for two entities, Government National Mortgage Association, or Fannie Mae and Freddie Mac. These were the major institutions for housing in America. Between them, some 50 percent of all mortgages were being held. It was understandable that decision was made because the alternative was unthinkable. If Fannie Mae and Freddie Mac should collapse, it would jeopardize not only mortgages and homeowners but also the American economy. It is such a large part, it is so substantial. So the administration stepped in to make that decision.

Now this week comes a new round. Lehman Brothers, a company in New York which has prospered for many years, now faces bankruptcy, and along with it the question of the future of Merrill Lynch, a major brokerage house which appears to be in line to be acquired by Bank of America.

These are dramatic and unsettling events and a reminder to all of us that the state of the economy is not as sound and solid as we would like to see it. But those are the events which happened at the highest levels of finance and the highest levels of Wall Street.

All of us representing our constituents—I represent Illinois—have traveled around our States and met with small business men and women, family farmers, and families as well, talking about the situation they face today. They do not make the headlines as Merrill Lynch or Lehman Brothers, but they should because if you go across the board and talk to these working families, these middle-income families, you will find that over the last 7 or 8 years, this country has not been kind to them. Their spending power has been reduced. They continue to work. They are productive workers. America's economy is a productive economy. And yet they have not been rewarded for their work. They have not kept up with the cost of living. They have fallen behind under this Bush administration some $2,000 worth of spending power at a minimum. These are the people who are paying $4.50 per gallon for gasoline trying to figure out how to get back and forth to work and to meet their obligations to their families and friends.

These are folks who are struggling with the cost of groceries and clothing. They are the same ones trying to figure how in the world to put their kids through college so their kids will not end up with student loans that look like their first mortgages.

They are worried also about health care costs. Of course the insurance plans that do not cover as much this year as they did last year. They are worried about the out-of-pocket payments they may have to make. They realize, most of them, they are one diagnosis away from bankruptcy. That is the reality of life in the economy beyond Wall Street.

So when you look across the board at this economy, you realize the fundamental weaknesses of what we face today. Of course the housing market has been the catalyst for some of the problems we now see. It turned out that the greed of Wall Street, the overreaching of some companies, led to loans and mortgages which were totally unwise.

Many of those now have resulted in foreclosures, where people are having to leave their homes. Their misfortune is being visited on their neighbors. I recently had an appraisal on my home in Springfield. It is the same home I lived in when I was first elected to Congress in 1987. It is the same home in Illinois that I represent. It is the same home that I represent.

Mrs. FEINSTEIN. Mr. President, I suggest the absence of a quorum.

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

RECESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate stands in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:34 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. CARPER).

September 16, 2008 CONGRESSIONAL RECORD — SENATE S8821

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2009—Continued

The PRESIDING OFFICER. Who seeks recognition?

Mr. LEVINE. Mr. President, I suggest the absence of a quorum.
people such as the venerable wise crit-
ic, Rush Limbaugh, said: If we close
down the Federal Government no one
would even notice.

Well, he was wrong when he said it.
He would certainly be wrong today be-
cause what has happened to us is a re-
minder that Government has an im-
portant role that Government needs to
dea with. As strong as our entre-
preneurial free market economy is, if
it is not subject to oversight and ac-
countability, it can spin out of control.

That is what happened with this
subprime mortgage market. Instead of
having appropriate oversight and ac-
countability, loans were made which
made no sense whatsoever, and eventu-
ally that credit operation collapsed
leading to the foreclosures we see
today.

What we see on Wall Street now with
many of these investment banks going
under are credit institutions which are
not subject to government regulation.

It is like playing "off the books." If a
business does that, the IRS comes in
and says: You have just violated the
law. You are supposed to put every-
thing on the books and report to us.

We have no idea what the credit
and finance that is "off the books"
when it comes to regulation and over-
sight by the Federal Government. And
that is the world that is collapsing. It
is an indication to me that when we
faced a similar situation 75 years ago,
with the great stock market crash, Fran-
lin Roosevelt got it right. He under-
stood that the economic problems in
America called for sensible regulation
and disclosure and transparency and
accountability.

He created agencies which responded
to the economy of the day. Regulation,
yes, but without that regulation, un-
fortunately, the market was spinning
out of control to the detriment of ev-
eryone, not just business owners but
farmers, and people who are just
trying to get by.

We need to return to a mindset which
says there is an appropriate role for
Government. There are things which
our Government can do which private
industry, on its own devices, will not
do. That is why we need to be more
sensible when it comes to regulation.

Yesterday, the Republican candidate
for President, JOHN MCCAIN, said:

"Our economy, I think still the fundamen-
tals are strong."

I would say that Senator McCain
does not accurately portray our econ-
omy today. I wonder which economy he
is talking about? Is he talking about
an economy with record unemployment,
the highest in 5 years? Is he talking
about an economy with record home
foreclosures, the most since the Great
Depression? Is he talking about an econ-
omy where people’s savings that they
count on for the future—the value of
their homes or their 401(k)s or their
coupon rates of free market approaches, former Senator Phil
Gramm and Alan Greenspan, the former Fed-
eral Reserve chairman. Individuals associ-
ated with Merrill Lynch, which sold itself to
Bank of America in the market upheaval of
the past weekend, have given his presidential
campaign $300,000, making him Mr.
McCain’s largest contributor so far.

Mr. Obama sought Monday to attrib-
ute the financial upheaval to lax regulation
during the Bush years, and in turn to link Mr.
McCain to that approach.

"I certainly don’t fault Senator McCain
for these problems, but I do fault the economic

That is why this election is so funda-
mental. If we want to continue the eco-
nomic policies of the Bush-Cheney ad-
ministration that have led us to this
sorry moment, then Senator McCain
is clearly the person who should lead this
country for the next 4 years. But if we
want a change, if we are going to give middle-income and
working families a fighting chance in
this economy, if we are going to have a
Tax Code written not to reward wealth
but to reward work for a change, then
we need a change. We need to have a new approach, not only
a new economic and tax policy but the
kind of regulation that provides
protection from the excesses of the mar-
ket. Even Senator McCain yesterday
referred to the greed on Wall Street.
Left unchecked, unfettered, this greed
can spin out of control. That is why
there is such a fundamental choice fac-
ing American families in only 7 weeks.

I ask unanimous consent to have the
New York Times article to which I re-
ferred printed in the RECORD.

There being no objection, the mate-
rial is ordered to be printed in the
RECORD, as follows:

[From the New York Times, Sept. 16, 2008]

Washington.—The crisis on Wall Street
will leave the next president facing tough
choices about how best to regulate the finan-
cial system, and whether Senator Barack
Obama or Senator John McCain has yet offered
detailed plans, their records, and the principles
they have set out so far suggest
they could come at the issue in very
different ways.

On the campaign trail on Monday, Mr.
McCain, the Republican presidential nomi-
ninee, struck a populist tone. Speaking
in Florida, he said that the economy’s under-
lying fundamentals remained strong but
were being threatened “because of the
greed by some based in Wall Street and we have
got to fix it.”

But his record on the issue, and the views
of those he has always cited as his most in-
fluential advisers, suggest that he has never
departed in any major way from his party’s
embracing of deregulation and relying more on
market forces than on the government to
erect discipline.

While Mr. McCain has cited the need for
additional oversight when it comes to spe-
cific situations, like the mortgage problems
behind the current shocks on Wall Street, he
has consistently characterized himself as
fundamentally a deregulator and he has no
history prior to the presidential campaign of
advocating steps to tighten standards on in-
vestment firms.

He has often taken his lead on financial
issues from two outspoken advocates of free
market approaches, former Senator Phil
Gramm and Alan Greenspan, the former Fed-
eral Reserve chairman. Individuals associ-
ated with Merrill Lynch, which sold itself to
"I certainly don’t fault Senator McCain
for these problems, but I do fault the economic
philosophy he subscribes to,” Mr. Obama told several hundred people who gathered for an outdoor rally in Grand Junction, CO.

Mr. Obama set out his general approach to financial reform in March, calling for regulating investment banks, mortgage brokers and hedge funds much as commercial banks are. And he would streamline the oversight of agencies and board a commission to monitor threats to the financial system and report to the White House and Congress.

On Wall Street’s Republican friendly turf, Mr. Obama has outraised Mr. McCain. He has received $9.9 million from individuals associated with the securities and investment industry, $3 million more than Mr. McCain, according to the Center for Responsive Politics, a watchdog group. His advisers include Wall Street lights, including Robert E. Rubin, the former treasury secretary who is now a senior adviser at Citigroup, another firm being buffeted by the financial crisis.

If many voters are fuzzy on the events that over the weekend forced Lehman Brothers Holdings Inc. into bankruptcy and Merrill Lynch & Company to be swallowed by the Bank of America Corp., the continuing chaos among the most venerable names in American finance — coming on top of the recent government seizure of mortgage giants Fannie Mae and Freddie Mac and the demise of the Bear Stearns Companies — has stoked their anxiety for the economy, the foremost issue on voters’ minds.

So far this year, Mr. Obama and then Mr. McCain rushed out their statements on Monday morning before most Americans had reached their workplaces.

To the extent that travails on Wall Street and Main Street have both corporations and homeowners looking to Washington for a hand, that helps Mr. Obama and his fellow Democrats argue that taxes and good, and business regulation as essential. Yet Mr. McCain has sold himself to many voters as an agent for change, despite his party’s unpopularity after years of dominating in Washington, and despite his own antiregulation stances of past years.

Mr. McCain was quick on Monday to issue a statement calling for “major reform” to “replace the outdated and ineffectve patchwork quilt of regulatory oversight in Washington and bring transparency and accountability to Wall Street.” Later his campaign unveiled a television advertisement called “Crisis,” that began: “Our economy in crisis. Only proven reformers John McCain and Sarah Palin can fix it. Tougher rules on Wall Street is John Thain, the chief executive of Merrill Lynch, who has raised about $500,000 for Mr. McCain. Unlike Mr. Gramm, Mr. Thain has a reputation as a pragmatic, non-ideological, moderate Republican. That the men are Mr. McCain’s touchstones is typical of his small and eclectic mix of advisers, making it hard to generalize about how Mr. McCain would regulate.

A prominent McCain supporter, Gov. Tim Pawlenty of Minnesota, signaled how Mr. McCain would regulate. “Replace the outdated and ineffective patchwork of regulatory oversight in Washington and bring transparency and accountability to Wall Street,” he said.

Mr. Obama also does not have much of a record on financial regulation. As a first-term senator, he voted for the major debates of recent years, and his eight years in the Illinois Senate afforded little opportunity to weigh in on the issues.

In March 2007, however, he warned of the coming housing crisis, and a year later in a speech in Manhattan he outlined six principles for overhauling financial regulation.

On Monday, he said the nation was facing “the most serious financial crisis since the Great Depression,” and attributed it on the hand of the Republican White House that, he says, Mr. McCain would continue. Seeking to showcase Mr. Obama’s concern, his campaign in late 2007 his speech in Manhattan when he outlined six principles for overhauling financial regulation.

One reason for both men’s sketchy records on financial issues is that neither has been a member of the Senate Banking Committee, which has oversight of the industry and its regulators. Under both parties’ leadership, the committee has been a graveyard for proposals opposed by lobbyists for financial institutions, including Fannie Mae and Freddie Mac, which last week were forced into government conservatorships.

Industry lobbyists killing such regulations meant senators outside the banking panel did not have to take a stand on them.

Mr. Boxer. Mr. President, before the hour of 2:30, I ask unanimous consent to be recognized for 5 minutes.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, before the hour of 2:30, I ask unanimous consent to be recognized for 5 minutes.

Mrs. BOXER. Mr. President, I rise to address the Senate not only as a Senator from the largest State in the Union, a State that is experiencing many problems that started with the housing crisis about which we talked a long time ago, before the Fed stepped in and did something, but I also rise as an economics major. I received my degree in economics. My minor was political science. I was a stockbroker a long time ago on Wall Street. I know a little bit about Wall Street, and I know a little bit about the times we are in right now. I worked on Wall Street when John Kennedy was assassinated. It was a horrible time. Confidence was shattered. The stock market, actually closed for a period. Now there are facing a meltdown. The fact is, we are all going to work and hope that it doesn’t melt all the way down.

On the day that we learn about Merrill Lynch, which was the gold standard in our economy, I wonder what I understand is the largest insurance company in America, when we hear about that and about Lehman Brothers, which we also hope can survive in some form via purchase—and certainly would mean that thousands of people have lost everything—to hear a U.S. Senator—namely, Senator McCAYN—say the fundamentals of this economy are strong sends cold shivers up and down my spine. To think that anyone would say that, one would have to go back to the days of Herbert Hoover. President of the United States, the day after the market crashed in 1929 and we entered the Great Depression. He said:

"The fundamental business of the country, the human production and consumption, the commodities, is on a sound and prosperous basis.

We have Senator McCAYN memoriably altering this attitude and these words. I wish to spend the rest of my time going through the fundamentals of this economy. I will come back and speak later when I have a little more time to expand.

In 1999, the average American family spent $3,261 on cost-of-living expenses; in 2007, $7,385. The average household expenses in 2002 was 10.8% of income. In 2000, incomes are going down. Expenses are going up—groceries, heating, gas, health care. The fundamentals of our economy are strong? As Senator Obama said: What economy? Not this economy. The average household earned $26,600 in 2006 than they did in 2000. Job growth during this administration has been the slowest since Herbert Hoover in 1929, the Great Depression. Our economy has lost jobs for 8 straight months; 84,000 jobs were lost last month. The fundamentals of this economy are strong? What?

One in five Americans is unemployed for more than 26 weeks, an increase...
8.2 percent over 2001. Americans living in poverty increased by 5.7 million since 2000, and 37 million Americans live in poverty. The fundamentals of this economy are strong? Spare me.

Existing home sales fell by 22 percent in 2007. President Bush inherited a surplus. We now have an enormous deficit. The debt has increased over $4 trillion since 2001. We are spending $10 billion a month in Iraq. The money is leaving the country. We are not making the investment. The fundamentals of this economy are strong.

Every American, I don’t care what party—Republican, Democratic, Independent—should be up in arms about a leader looking at these figures. I have only given a little of the story. Let’s get real. The fundamentals of this economy are weak. The people are anxious, and they should be. It is time for change.

I yield the floor.

The PRESIDING OFFICER. The time of the Senator from California has expired. Who seeks recognition?

Under the previous order, the time until 3:06 is equally divided, with the Republican leader controlling the first 15 minutes and the majority leader controlling the last 15 minutes.

Mrs. BOXER. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection, it is ordered.

Mr. KYL. Mr. President, unfortunately, we are in a situation with this bill where we have not been able to reach an agreement on how to proceed. I say this notwithstanding the Herculean efforts in the cloakroom to try and bridge the gap—I respect both sides—on their differences in their bill and our bill.

Senator WARNER informed me a moment ago about the negotiations that have been ongoing, literally over the weekend, and yet it appears that notwithstanding their best efforts it has been impossible to find a way to move forward on this bill that encompasses amendments or embodies those amendments in a managers’ amendment to the bill such that the Members, at least on our side, would feel comfortable to close off debate on the bill and bring debate to a close so we could move on with the bill. Unfortunately, I believe we have had two votes so far on this bill. I think one of those was on an amendment I offered, or it was accepted.

In both events, I think they have accepted two amendments, we have had two votes, and I am informed that over the past three Department of Defense authorization bills, we had a rollcall vote average of 21 votes per bill. That is the number of a Defense authorization bill. This is one of the most important bills we have each year. There is a lot of Member interest. The committee
This is about earmarks? Oh, come on. We have had congressionally mandated spending since we have been a country. Why? Because our Founding Fathers set the country up that way. We have three separate branches of government. We did. We have a President. He doesn’t make all the decisions. Benjamin Franklin and all of those men who met in Philadelphia wanted us to have three separate branches of government and they determined what our duties would be in the Constitution. One of them is to determine the spending. That is our role.

That is our obligation. Now, are these two men trying to hide something from the American people, trying to sneak something in to help a military base someplace in America? No. Everything is transparent. This earmark is only one of the issues of the day to give somebody something to talk about, to talk about how bad government is.

During the last 8 years, our Armed Forces—the best trained, the most courageous armed forces the world has ever known—have been stretched to the limit. I don’t say this; our military commanders say it. Both civilian and military leaders of our country say we have a military. History reminds us that during these years, despite tremendous strain, our military accomplished everything asked of them with heroism and success. We have all been to the funerals. I never understood Afghanistan until I went to the funeral. I thought why is this SEAL in Afghanistan? There is no water there. He is there doing the things they are trained to do—going after terrorists—and he was killed in the process. It won’t be easy to rebuild our Armed Forces. It must be a priority of our next President to give them proper rest, proper training and equipment when they have employed, proper physical and mental health care when they return from combat.

Part of my security detail as the majority leader—because people don’t like what I do and say—I have had as a part of my security detail a guy by the name of James Proctor. Since I was assistant leader and leader, he has been with me all that time, but it has been interrupted by three tours of duty to Iraq. He is in the medical corps. Three tours of duty. He leaves his little family and heads off to Iraq. For James Proctor—to tell him we are not doing a Defense authorization bill because of earmarks or because we didn’t have enough time to debate it, it is laughable, and he would laugh. They would all laugh. It is unfair.

So next January 20, I guess, we will see what we can do to move forward, because we have to rebuild our Armed Forces. In the meantime, Congress can begin. I hope, to do something in the interim. We can begin now by passing the Defense authorization bill, a sensible, bipartisan bill that will honor our troops and enhance our national security. But many see that this bill will give almost a 4 percent increase—exactly 3.9 percent increase—a pay raise—to personnel. Do they deserve it? Of course they do. If this bill doesn’t pass, do they get it? Of course they don’t. This will mean more money in the pockets of military families struggling to make ends meet from one paycheck to the next. It will help returning heroes afford a place to live or go back to school. We invest in Defense health programs for men and women which, among other things, prevent the need to raise TRICARE fees. This bill will fight terrorism and protect our national security, and to tell James Proctor and people who have served gallantly in this military that we are not moving forward on this because minority rights aren’t protected?

This bill is a part of our international non-proliferation efforts to combat weapons of mass destruction as well as programs that will help us prepare the homeland for chemical or biological attacks. This bill will increase funding to pool resources and to train and equip forces and support ongoing military operations. If we hear one thing when we go to Afghanistan, they will tell you how important special operations officers and troops are. This bill will help support the development and use of unmanned aerial vehicles. Creech Air Force Base—named after General Creech who ended his career and his life in Nevada—was named after him, a great military officer. Indian Springs Air Base, it used to be called. It is midway between Las Vegas and the Nevada test site. This facility was going to be closed, until they determined these drones were some of the most important, and to have these did the military. And, this legislation takes into consideration how important unmanned aerial vehicles are. This legislation helps reinforce special intelligence capabilities within the Army and the Marine Corps. This is a very good piece of legislation, an important step toward rebuilding our Armed Forces and protecting the American people.

I wish I had words adequate to express my personal appreciation—and I can say it for everyone else—of Senator Levin and Senator Warner. There are no two more honorable people in the world; whether they are rabbis, priests, ministers, there is no one who has more credibility and honesty than these two men. I have had conversations with these two fine Senators, where they said: This is what I am going to do. Do I need to check back with them and ask: Do you really mean what you said? No. Their word is their bond. Once they have said it, that is it. I feel very bad. Senator Levin is going to have another opportunity to do one of these bills, but this man, Senator Warner, won’t unless we invoke cloture. We need to do that so that he can participate in coming up with the final bill that will lead to a conference with the House of Representatives. For 30 years—as I have said on the floor before—I don’t know his number. He has served with a number of them—but the State of Virginia could not have had a better Senator than John Warner. They could have had one as good but nobody better. These two men have done their very best. I accept the products. I accept what they have written. But we have right here, now, today. I accept it. Let’s pass it. Let’s invoke cloture on it, and if there are germane post cloture amendments, we will take care of those. That is what these men do.

Now, I want to say one other thing. Let’s not forget that the ranking Republican on the Armed Services Committee is Senator John McCain. I understand the Presidential campaign takes candidates away from what goes on here. Both parties call this. But it certainly would have helped move this legislation forward if the ranking member of this committee, the Republican nominee for President, had shown leadership and a commitment to this bill. Senators McCain and Lugar are saying: Come on, we need to get this passed. Not a word publicly or privately, that I know of.

We have a chance to do the right thing by coming together to invoke cloture and move forward. This legislation, I hope all Senators, Democrats and Republicans, will join to move forward so we can honor and promptly care for our military families, while enhancing our country’s ability to meet the security challenges we face.

Let me say that, while I talked about Senator Warner, I want to close by talking about Carl Levin. I, too, don’t know all of his predecessors. I do know a little history. There could have been a Senator as good as Carl Levin from Michigan but no one any better.

We respect this legislation. The country deserves this legislation. These two managers deserve this legislation. Let’s invoke cloture. It will allow the Senate to move forward. We will move forward. I hope all Senators, the product we have given us, the product we are to vote on. Let’s pass it. Let’s invoke cloture on this legislation. I hope we can do that.

I ask unanimous consent that Senator Levin be given 2 minutes to close the debate.

Chairman of the Committee. Without objection, it is so ordered.

The Senator from Michigan is recognized.

Mr. Levin. Mr. President, I thank the leader and I thank Senator Warner for his statement in support of cloture. It is a difficult and courageous vote. I commend them on it.

The issue here is not earmarks; the issue is a perception that is being perpetuated. This green book is the committee report. This book lists all of the items to be added to it and subtracted. This white book is our bill. It incorporates the charts and lines from the committee.
The Assistant Legislative Clerk read as follows:

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Order of the Senate, hereby move to bring to a close debate on S. 3001, the National Defense Authorization Act for Fiscal Year 2009, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The Clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Massachusetts (Mr. MCADAMS). Further, if present and voting, the Senator from Texas (Mr. CORNYN) would vote "yea."

Mr. KYL. The following Senators are necessarily absent: the Senator from Texas (Mr. CORNYN), the Senator from Florida (Mr. MARTIN), and the Senator from Arizona (Mr. MCCAIN).

Further, if present and voting, the Senator from Texas (Mr. CORNYN) would have voted "nay."

Mr. SANDERSON. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 61, nays 32, as follows:

[Vote Call Vote No. 200 Leg.]

YEAS—61

Biden, Cornyn, Dole, Durbin, Feinstein, Kylen, McCain, Menendez, Menendez, Murray, Murray, Neilson, Neilson (FL), Neilson (NE), Nussman, Reid, Reed, Roberts, Rockefeller, Salazar, Sanders, Schmier, Smith, Snowe, Specter, Stabenow, Stevens, Sununu, Tester, Warner, Whitehouse, Wyden

NAYS—32

Alexander, Allard, Barasso, Bennett, Bond, Brownback, Burd, Burr, Chambliss, Coburn, Corker, Craig, Crapo, DeMint, Domenici, Enzi, Feingold, Graham, Grassley, Guay, Hatch, Harkin, Hagel, Hatch, Obama, McCain, Martinez, Kennedy

The PRESIDING OFFICER. On this vote, the yeas are 61, the nays are 32. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. DURBIN. Mr. President, I move to reconsider the motion was agreed to and to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, I want to express my appreciation to everyone. I tell all Senators that Senator WARNER and Senator LEVIN are going to do everything they can to process this bill. We are going to complete this bill by tomorrow night, and we will get the bill to conference.

We can get a bill. Everyone who has something they want to do, talk to these two managers and they will do the best they can. This is an important bill, and the Senate realized that. I think this is a really good day for the Senate.

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

The PRESIDING OFFICER. The bill will call the roll.

The bill clerk proceeded to call the roll.

Mr. MENENDEZ. 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. MENENDEZ. Mr. President, I ask unanimous consent to speak as in morning business with the time to run postcloture.

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

Mr. MENENDEZ. Mr. President, there is no doubt Wall Street and Main Street are in a crisis. The floodgates from the subprime storm have ripped open and the effects are clearly devastating—unemployment is up and mortgage rates are down.

While I may not be able to predict what is coming next, I would like to talk a little bit about how we got here. Americans may not have been tracking the exact moves and, I believe, the negligence on the part of the Bush administration that has led us to this point, but we certainly understand the consequences.

For New Jersey, my home State, financial losses on Wall Street mean job losses at home. I am worried about the 1,700 employees of Lehman Brothers in Jersey City. I am worried about the 6,000 employees at Merrill Lynch in Hopewell. I am also worried about those families and others who are going to have to face foreclosure or watch their home values plummet. And I am worried about millions of retirees and people approaching retirement who are going to realize that their life savings are under attack and diminishing at a large degree is that for the last 8 years we have had an administration that has turned a blind eye to financial markets and deregulated at every turn, playing Russian roulette with our economy. Their regulatory changes gave lenders the chance to invent new ways to make bad loans and to pass off the risks to investors.

The Federal Reserve had a power given to it long ago by a Democratic Congress to fight predatory lending. For more than 7 years of the Bush administration it failed to use it. If they
had acted, many predatory lenders wouldn't have been allowed to peddle bad loans, which investment banks bought and then went bust and spurred this crisis.

There are so many parts to this pattern of misrepresentation. In February, a Democratic Congress passed the Homeowner's Equity Protection Act. It was the first statute to fight predatory lending. That was in 1994. That law mandates that the Federal Reserve must issue regulations to prohibit abusive and deceptive practices. But how long did it take the Federal Reserve to do so? It took the Federal Reserve 14 weeks—for weeks. Between the two bills, Republicans had six filibusters to prevent the passage of this legislation.

Notwithstanding what was happening throughout the country, as a member of the Senate Banking Committee in March of 2007—well over a year and a half ago—I raised the prospect of a tsunami—my word—of foreclosures. But the administration said: Oh, no, that is an overexaggeration. Unfortunately, I wish they had been right and I had been wrong. But the fact is, we haven't even seen the crest of that tsunami yet. A few months later, as foreclosures mounted, they assured us that the problems we were concerned about might bring broader consequences to the economy. But oh, no, all those who came before our committee, all the financial leaders of this administration—the Secretary of the Treasury, the head of the Federal Reserve, and the regulatory side of the Securities and Exchange Commission—oh, no, those should be continued. Only the housing market, even though they couldn't even see the foreclosure crisis being the tsunami it has become.

In July I asked them about the prospect of a bailout of Fannie Mae and Freddie Mac, but they couldn't foresee that either or they were misleading the committee. I see the distinguished chairman of the Banking Committee is here, and he will recall they were asked head on. They asked for incredible authority. Yet they could not foresee the problem. As the mortgage crisis continued to rear its ugly head in dimensions that some of us predicted a year and a half ago. Those who are in charge of the regulatory process, appointed by the Bush administration, ultimately could not see.

So even in the face of all that, we had the White House issue numerous veto threats against the bill that was critical to try to get to the very root cause of the housing crisis that has overwhelmed America today—the housing foreclosure crisis—which has created this ripple effect in all our financial institutions. Yet they were issuing veto threats—veto threats. How could you be so blind or so arrogant when you are in the interests of one sector that you are unwilling to mitigate the risks on behalf of the American people?

This is not new. Look at 2005. In 2005, the House of Representatives—I was a Member there at the time—passed a bipartisan GSE reform bill by a vote of 331 to 90. GSEs are those Government enterprises; that is, Fannie Mae and Freddie Mac. We wanted to have a strong reform bill. It was offered by Representative Rahming, but at that time, a Republican, working with Barney Frank, offered the bill. It passed overwhelmingly. In the House of Representatives—I served there for 13 years—I can tell you, when you get a vote of 331 to 90, that is about as bipartisan as you can get.

That bill was offered here in Senate Democrats exactly as it passed the House. But it was blocked by the White House. Even Mike Oxley, the former Republican chairman of the House committee, said recently: We missed a golden opportunity that would have avoided a lot of the problems we are facing now if we had not had such a firm ideological posture at the White House and the Treasury and the Fed. What did we get from the White House? We got a one-finger salute.

His words, the chairman of the House Financial Services Committee, which passed the bill in a big bipartisan vote. We couldn't get it through here in the Senate.

I find it incredibly difficult to see that one of our colleagues who is running for President, Senator McCain, now talks about all of these issues. He has a new ad out suggesting he is a re-former. But he was part of the same Bush views. He basically was in support of most lifting of regulations.

So as the tsunami approached—the one that we were told, when I raised it a year and a half ago, they couldn't see—the administration was consistently on the back side of that tsunami, watching it sweep toward us, watching while the American people got washed under.

We have had 8 years of our regulatory entities. Who are they? The Securities and Exchange Commission, the Federal Reserve, the OCC—the Office of the Comptroller of the Currency under the Treasury Department. Instead of being the cops on the beat to ensure we have a marketplace that is balanced, this marketplace and, yes, we believe in free enterprise, but an unregulated marketplace, as we found, is one that has excesses. The reason there are regulators is to make sure there is balance at the end of day. But when those who are supposed to be the cops on the beat—the regulators—hit the snooze button instead of going into action so we can prevent or mitigate what we are now facing, we see the consequences.

Some of my colleagues on the other side of the aisle call this scheme “the ownership society,” which means today: You are on your own. A strong believer in this scheme has been Senator McCain, in the face of this crisis, to repeat the same old claim yesterday that the fundamentals of the economy are strong. Housing foreclosures are defying gravity, and he continues to make statements that defy reality. Great financial institutions collapse, and Senator McCain has generally supported deregulation as the answer. That is like trying to say you want to take cops off the street to deal with a riot.

I have a real concern as we now move forward. We are where we are as a result of economic and regulatory policies of the Bush administration that John McCain thinks are the sound underpinnings of a good economy and continue to call that unacceptable. That is not change. That will not change the course of where we are headed in this economy. That will not change the course of the consequences to millions of Americans.

We have not just a crisis, we have investors. Look at the consequences. Look at what is happening. When Lehman Brothers has to close, not only are those 1,600 jobs in New Jersey at risk, but it affects all of those who had mortgages, all of those who used a service, all of those who bought a product, all of those who went out to eat in restaurants, all of those who, in fact, employed someone else to give them a service while they were working. The ripple effect is very significant.

When people get their statements for their retirement accounts, whether it be a 401(k) or a thrift savings or whatever, we are going to see what that means to people in real life. Some are going to look and say: I am going to have to keep working because I cannot continue this way.

I want to echo what one of my distinguished colleagues, the Senator from Illinois, said a few weeks ago in Colorado: Enough. Enough denial of more of the same. Enough denial about our challenges. It is time to develop solutions.

We look forward to having the Secretary of the Treasury before the Banking Committee this Thursday. There is a very tough question to be answered, not only about what has happened but what we are doing as we move forward.

It is enough of more of the same. Enough denial about our challenges. It is time to develop solutions. I believe we have to act fast to provide an economic stimulus package targeted to provide relief to those most in need, in...
ways that stimulate our economy and infrastructure.

Let’s be clear, we have to recognize the potential for what we call moral hazard. We can’t have everyone on Wall Street think they can go to any excess whatever the Government chooses and then bail them out. But at any given time in this process we have to look at what entity creates the risk. We are in one of the most precarious moments in our financial history. What entity creates perhaps a systematic risk, something that is given such a widespread risk that we have to look at that as an individual case and determine whether there is a different governmental action to be recognized.

In general, as we move forward, I certainly hope the legislation Senator Dodd and Senator Shelby worked on together, that went through six filibusters and a bunch of veto threats by the President and finally got through into law, is now actively pursued starting on October 1, which is when it comes into effect. We cannot have any of the Bush administration agencies and regulatory entities involved not be ready to go on October 1 to start providing relief on those hundreds of thousands of foreclosures. It is not only for those families but at the same time try to make those performing loans so we can prop up all of these functioning institutions at the same time so all of us as Americans get some relief from an economy that is definitely headed in the wrong direction.

In general, as we move forward we have to establish which failures are isolated and which present a systemic risk to the entire financial system.

Second, it is fundamental to the health of our economy that we help homeowners stay in their homes. The housing market is not just a center of the crisis, it is also a pillar of our society. Taking steps to shore it up makes sense. Especially as this school year gets underway, we can’t sit back and watch children get thrown out not only from their homes but pulled from their schools.

Third, we absolutely must hold administration officials and regulators accountable. I myself promise to do my part when they come before the Banking Committee this week and next. They better be prepared for some tough questions and some straight answers. I am tired of hearing that you could not foresee it. We must tell you and others about the tsunami of foreclosures. We could have stemmed the tide. We could have acted in a regulatory process to make sure that was minimized.

When you are asked what is the possibility of a bailout of Fannie Mae and Freddie Mac, I am tired of being told you can’t foresee that happening, and just a month and a half later you have a very significant bailout—and you can’t tell us how much the taxpayers will be on the hook for it. I am tired of being told by some of our colleagues, such as Senator McCaskill, that this economy has all the right underpinnings and all the right regulatory processes. That is a fantasy world. It is a world that ultimately Americans cannot afford. They cannot afford that type of thinking in terms of when we go over the next 4 years.

I look forward to those opportunities, moving forward this week and the next, to try to turn the course of where we are for all Americans and for our Nation as a whole.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I will be very brief. I commend our colleague from New Jersey, a wonderful member of the Senate Banking Committee who has been invaluable over the last 18 months as we confronted a morass of problems that, as he very properly and accurately points out, began building up years ago.

This did not all of a sudden happen 18 months ago. As I said so many times, this was not a natural disaster. This was not a hurricane or a tornado. This was the great tragedy of all of this. Had we had regulators on the beat—as he describes it, cops on the beat—had the legislation that passed overwhelmingly in this Congress actually been enforced with regulation, promulgated dealing with deceptive and fraudulent practices in the residential mortgage market as many as 4 years ago—without a single regulation, under the leadership of this administration, being promulgated—we could have avoided the “no doc” loans, the liar loans, the subprime predatory lending, luring innocent people into dreadful situations that these brokers and lenders knew they could never afford to pay and then packaging them and brandishing them triple-A mortgages and selling them off as quickly as they wrote them to get paid off themselves and then pass on the responsibility to someone else. All of that history is replete as to how this situation unfolded. Now, of course, they want to avoid the blame for the consequences—this crowd does—for what happened.

The Senator from New Jersey laid it out very well. The public needs to know that. They also need to know what we should be doing together to get it right. We have a lot of work in front of us to get it right, but in order to get it right, we also have to acknowledge what went wrong, and there is a long history of what went wrong here.

I welcome the remarks of my colleague and thank him for his leadership and look forward to working with him.

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. LEVIN. 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. LEVIN. Mr. President, now that cloture has been invoked on our bill, we are going to be working very hard with Senators who have germane amendments that have not been cleared to see if we can make progress on such amendments. We not only require that Senators who have such amendments come promptly to the floor to meet with us or our staffs, but we also have to recognize that any such amendment, if it is not in a cleared package, would require consent of the Senate.

After Senator Warner has an opportunity to speak, I think we will put in a quorum call and do some other work we need to do in order to get to the next stage in this bill. Hopefully, we can now move promptly on this bill now that cloture is invoked. I thank Senator Warner from Virginia for all he did to make that possible.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, as the distinguished chairman said, we have some 90 amendments now cleared. Now that the issue of going forward is also as this to do next, there is an impetus to move forward such that the package of 90-some can grow, hopefully by 30 or 40, before close of business tonight and possibly we can consider moving that as quickly as we can. We are ready to assist all Senators with regard to their amendments filed and, indeed, otherwise. We are here to try to ascertain our ability to put them in a package that is cleared; if not, despite the parliamentary situation, to help them secure a vote.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, we will, of course, do our very best, working with Senators, to add to this package. There are some possibilities there. Again, I wish to alert Senators to the fact that we are in a postcloture situation, which means they must be germane unless there is unanimous consent to the contrary. Also, the parliamentary situation is such that it would require consent. But as the Senator from Virginia wisely points out, we are going to do our very best to not be limited to technicalities if we can get consent of the body to obviate those technicalities.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mrs. McCASKILL). Without objection, it is so ordered.
THE ECONOMY
Ms. STABENOW. Madam President, I come to the floor, as many of my colleagues have on this side of the aisle, to express my outrage and my amazement at the continued comments of one member, who is present but is running for President, Senator JOHN MCCAIN, when even as Wall Street now is crumbling—we have seen the actions of the last couple days—he continues to say the fundamentals of the economy are strong. That shows how out of touch he is, as is the President whom he works with, George Bush, and those who support this view that the fundamentals of the economy are strong.

I remember a while back coming to the floor after comments were made, as well, about at that time the chief economic advisor for Senator MCCAIN. Even though this person has now stepped down—also a former colleague—from that position, we know he is still very close to Senator MCCAIN and is involved in his efforts and so on. That is Senator Phil Gramm, whom I served with on the Banking Committee. He was chairman of the committee when I was first taking my place in the Senate. To hear Senator Phil Gramm, who worked so closely with Senator MCCAIN—we assume, based on their long relationship and the positive role Senator MCCAIN has said, that he would play a major role in a new administration under JOHN MCCAIN, and he has said as well, in addition to Senator MCCAIN repeating that the fundamentals of the economy are strong, we also remember former Senator Phil Gramm's comment that this is just a psychological recession; it is all in our minds. He said it is psychological and Americans have become a nation of whiners—a nation of whiners. I ask us, do you know people who are unemployed or if they were hallucinating when they lost their jobs this year; 605,000 Americans have lost good-paying jobs this year, since this past January. Were they hallucinating? Was this a figment of their imagination? Is it a figment of their imagination that they cannot make their mortgage payment or put food on the table or pay their electric bill or go to the gas pump and be able to refuel with outrageously high gas prices? Of course not. Of course not.

We have seen the economy unfolding in a way so that only those who are very wealthy, who have the ability to take their capital anywhere in the world, can succeed under this philosophy that has been in place, this Republican philosophy of no accountability, no transparency, no one watching in the public interest as people have made decisions that have undermined pension plans of working people. Heaven help you if you imagine Lehman Brothers had been managing Social Security payments for millions of senior citizens, which is, by the way, something else Senator MCCAIN wishes to see happen, privatizing Social Security.

What we have seen is an undermining of the fundamentals of what has been the strength of our economy—good jobs, good pay, supply and demand, putting money in people's pockets so they can afford to take care of their families and keep the economy going.

In addition to 605,000 people who have lost their jobs since the beginning of this year, we had 3.5 million manufacturing jobs lost, and counting, since 2001, since President Bush came into office. Madam President, 3.5 million people were not hallucinating. It was not a figment of their imagination that they lost their job and that their families have been put into a tailspin as they are now trying to figure out where they go from here to try to keep some semblance of the American dream.

The fundamentals of the economy are strong, Senator MCCAIN. We are, in fact, looking at an example of what it means to live under a philosophy of President Bush, JOHN MCCAIN, and the Republicans, and what actually happens if their philosophy comes into being.

For the first time, in the time I can remember, we saw from 2001 until 18 months ago a time when the House, the Senate, and the Presidency were all in the hands of the same party. We had a chance to see what they believe in, what are their values, what are their philosophies.

What we have seen is a philosophy that has raised greed to a national virtue, that has viewed public regulation and accountability in the public interest, to protect public resources or public funds, as something to be scoffed at and to be unwound, to deregulate, to make sure that the areas of Government that have responsibility, that are accountable, be able to deregulate, to cut back our monetary systems, our energy resources and other areas, in fact, are not held accountable.

We have seen an administration and a Republican philosophy that doesn't work for the majority of Americans. It works for a few. If you are one of the folks who is out there trying to make sure you can make as much money as possible for yourself and your friends, you may have done pretty well. But if you have been no willingness to understand the consequences for the majority of Americans or to accept any responsibility to make sure that the majority of Americans can benefit from the resources and opportunities and wealth of this great country.

This culture of greed and corruption, supported by Senator MCCAIN and President Bush and others for 6 years running, has led to Enron. I remember having people sitting in my office who had everything in their company's pension plans on Enron. They lost it all. They lost it all because of the schemes and the lack of accountability and oversight. They lost everything in their pension plans and they sat in my office and said: Thank goodness for Social Security because that is all I have left.

The same folks who gave us the Enron debacle want to privatize Social Security, including Wall Street companies, No-bid contracts, such as Halliburton in Iraq; continual tax cuts only for the wealthiest Americans; weak oversight of public industries, regulated industries, regulated in the public interest; a disregard for the Constitution; and now these same economies.

Fundamentally, the question is: Who are we as a country and do we want to continue these failed philosophies? That is not by accident. I suggest this is the result of a world view, a set of values and philosophies that does not put the majority of Americans and our country first, but basically puts in place the idea that greed is good and you should make it while you can, and we are going to make sure we strip away any public protections so your ability is unfettered to do what you want to do for yourself as opposed to what needs to be done on behalf of the American people.

If we don't have a change in this country, we are going to see the same failed blueprint with more of the same failed results, disastrous results. That is why I believe so strongly we need a change in direction and a change of values to put the American people first.

Again, our colleague, Senator MCCAIN, who has said that the fundamentals of the economy are strong, has worked to deregulate markets, has called himself a deregulator. Unfortunately, it is those policies that have gotten us to where we are today.

This is the most serious financial crisis since the Great Depression. And what is the plan at this point? To study the problem. Senator MCCAIN has said to any audits should study the problem. We don't need another commission. What we need are people who will make sure that the accountability, the oversight, the power that is here to stop price gouging, to bring oversight to what is going on is actually used. It hasn't been used under this administration. For 6 of the last 7 1/2 years there was every effort, in fact, to pull back on who was put on boards and commissions, the regulators, the overseers. They essentially were made up of people who didn't believe in the mission, who didn't believe they were there for the public interest.

Right now we have a situation where there are 84,000 Americans who lost their jobs last month, 90,000 Americans who lost their homes last month. They don't want another study. They don't want another commission. They want leaders who get it. They want leaders who understand their role in this Government of ours, this public trust we have given to ourselves and our friends but on behalf of everybody in this country, to make sure the rules are fair, that they are followed.
and that everybody has a chance to make it. That is what it is supposed to be about.

I am also reminded that Senator McCAIN has chaired the Commerce Committee and oversaw a massive deregulation that gutted our oversight of these markets. Where is the accountability? Instead of protecting consumers and preventing abuse, the special interests ruled. And Chairman McCAIN oversaw that effort.

One philosophy the Bush administration joined by Senator McCain for the last 8 years has been to give more and more to those who have the most, ignore the ability of others to make sure they can have what they have earned—their job, their pension, that Social Security is strong, they can afford to put food on the table and pay for the gas and be able to have what we all expect as Americans that will be available to us if we work hard and follow the rules.

We have had the same philosophy in place, the same philosophy that has brought us 8 straight months of job loss, the same economic philosophy that has left incomes stagnant while the families find themselves spending twice as much on the basics of their life.

Real household income is down. Imagine, we were lower in 2007 than in 2006. Income was lower in 2007 than they were in 2000. We are in a generation of having real concerns, and rightly so, that our children’s lives and economic circumstances will not be as good as our own.

The same philosophy has led to gasoline inching upwards to $5 a gallon, and the same economic philosophy that leaves 47 million people without health insurance, leaving them worried about whether their children will be cared for when they are sick. The same philosophy has been in place since 2001 with this President with 6 years of no balance and accountability, just one world view, 18 months of our coming in now and we wind down, working hard to bring in some accountability, even though there are unprecedented Republican filibusters to stop us.

But we have seen a philosophy that has failed. We need to be taking actions to stop the fraudulent, risky, and abusive lending practices, and that has been proposed over and over again. I commend Chairman Dodd of the Banking Committee and Chairman Baucus of the Finance Committee and all those who have been forward proposals that will make a difference.

We need to modernize the rules for a 21st century marketplace that will protect American investors and consumers. We have already proposed those changes. We also know we have in place a series of mechanisms that would hold special interests accountable and be able to make sure that people’s incomes and pensions and the economy in general are protected. We just haven’t used it.

I stand with another colleague of ours, Senator Barack Obama, who has said if you borrow from the Government, you should be regulated. There should be public accountability, transparency, if you are borrowing from the Government. If we want to stop abuses of the public trust, we need to have government oversight. To know that what is going on in this market; we need to know what is going on. If we want to protect the American people, we need to regulate dangerous practices, such as predatory lending.

We need to make sure we are focusing on those who have worked so hard all their lives, and their families who are looking for the opportunity to be successful in America. They want to know they are going to have a fair chance to do that. If they are going to be fair, they are not going to be stacked against them and in the interest of a special few, which is what has been happening since 2001 over and over.

Let me go back to my original comment and look at the million manufacturing jobs lost since 2001. Our colleague, John McCain, says the fundamentals of the economy are strong. I beg to differ. The fundamentals of the economy for Americans working hard and making ends meet, worrying about whether they are going to have a job, health care, send the kids to college, put food on the table, pay for the gas and all the other things, for them the economy is not strong.

People are working too hard, making too little, and paying too much every day, and we do not need another study or another commission. We need leaders who get it, who have the right values, who understand the intestinal fortitude to stand up and fight for the American people, the middle-class families who are sick and tired of what has been going on.

I can tell you, coming from the great State of Michigan, the people of Michigan have had enough. We have had enough. We can’t take more of this. We can’t take 4 more years of this. We can’t take 4 more days of this. We have had enough. But to change it, I believe strongly that we understand this is not just an accident that we are where we are. It is a conscious philosophy. It is actions and inactions that have been taken by those in charge—by this President, supported by Senator John McCain, supported by Republicans in the House and the Senate that have created the situation that has fostered the circumstances in which we find ourselves.

We can’t do this anymore. We need to make sure government works for real people, real people who have had enough. I can’t say it more strongly: We have to stop traveling down the road we are on, following this philosophy that has run us into extremely dangerous economic territory.

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

The PRESIDING OFFICER (Mr. Menendez). The clerk will call the roll. The bill clerk proceeded to call the roll.

Mr. Tester. 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. Tester. Mr. President, are we on the Defense bill or in morning business?

The PRESIDING OFFICER. We are on the Department of Defense bill under cloture.

Mr. Tester. Mr. President, I want to take a moment to thank Chairman Levin and Senator Warner for their willingness to work with me on the amendment that has been accepted into the manager’s package. This amendment provides some additional comfort to family members whose loved one is killed while serving in the military by allowing the Defense Department to pay for travel to a memorial service honoring a servicemember killed on Active Duty.

Currently, the law allows for the services to provide transportation of family members to a burial service of a servicemember killed on Active Duty. And the law allows the voluntary, the services, much to their credit, all make this travel available to the families. However, current law does not allow travel to memorial services. With many families split up over long distances, this can be particularly painful when a parent or sibling of one of our fallen heroes cannot afford to travel to a memorial service held by a unit or even other members of the family. Although some charity groups have been able to help these families attend memorial services for their fallen loved ones, when servicemembers die in service to their country, it is this country’s moral obligation to help their families in every possible way.

This amendment would allow the Secretary of each service to allow family members of fallen heroes to attend one memorial service as a way of helping to honor those who give the ultimate sacrifice—their lives—to our Nation. It would be voluntary. The services do not have to adopt this, but at least they would have the option, which is something they currently do not have.

Earlier this year, a constituent of mine suffered the loss of his son. He died in a hospital in Canada after being injured in Iraq. He was on a transport flight from Germany to Walter Reed when his condition worsened and the plane diverted to Halifax. When my constituent’s ex-wife sought to have a memorial service for their son in Phoenix prior to the burial at Arlington National Cemetery, the Army had to tell the man, whose son had given his life for our country, that the country could
not help him attend that memorial service. I think we can do better. I think we should do better. This amendment will allow us to do better.

When a soldier or marine or airman goes to war, the whole family goes to war. When a servicemember gives the ultimate sacrifice and is killed in service to our Nation, we need to do the right thing for the family. That is why I have offered this amendment. Again, I thank Chairman Levin and Senator Warner for working together to help get this amendment into the managers’ package.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

Mr. SANDERS. Mr. President, I ask to be able to speak as in morning business

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

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

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

THE ECONOMY

Mr. SANDERS. Mr. President, this week we have learned that Lehman Brothers, one of the oldest financial institutions in our country, an investment bank that survived world wars and a Great Depression, has proven that even it could not survive 8 long years of deregulation and lax oversight by the administration of George W. Bush. It is going bankrupt.

Yesterday we also learned that the beleaguered Merrill Lynch, the largest brokerage firm in this country, will be bought out by Bank of America, the largest financial depository institution in this country. Now we are also learning that the largest insurance company in the United States, and Washington Mutual, the largest savings and loan association in this country, are also in deep financial trouble. The list of troubled banks that the FDIC maintains is growing larger and larger.

In addition, last week, to avert a complete mortgage meltdown, we saw the Bush administration bail out Fannie Mae and Freddie Mac, putting tens of billions of dollars of taxpayer exposure and credit down the drain.

At the same time, Americans are still paying outrageously high prices at the gas pump. Prices are still over $3.50 a gallon, even though the price of oil is now down to almost $90 a barrel. Every little hiccup to send gas prices up or down with virtually no connection to real supply and demand indicators.

Up to this point, the Republicans in the Senate have prevented us from taking any real action to rein in those volatile energy markets, so oil could be down this week, but any kind of rumor or instability, whether man made or natural, could send those same prices soaring again.

I think it is important the American people were told the truth to where we are today: why we are in a situation where millions of workers are fearful about being able to heat their homes in the wintertime while workers all over this country are finding it very difficult to fill their gas tanks. Is what we have occurred simply bad luck? Are we at the bottom of the so-called business cycle? How do these happenings occur? And do we allow it to occur? If it occurred simply bad luck? Are we at the bottom of the so-called business cycle? How do these happenings occur? And do we allow it to occur?

If we take a deep look at what is going on in terms of the financial crisis we are suffering through today and the volatile energy prices we are suffering through today, we can understand that both are the result of deliberate policy decisions made by the Bush administration and the administrative negligence on the part of the Bush administration. These deliberate policies were the result, to a significant degree, of the power and influence of corporate lobbyists—who also make huge donations to campaign contributions—representing some of the most powerful special interests in the world, whether it is big oil, big coal or whether it is the largest financial institutions in the world.

What these lobbyists fought for and secured was selling deregulation snake oil, deregulation snake oil backed with millions in campaign contributions. That is what I think is the overriding issue as we look at the financial crisis facing Wall Street and the soaring and volatile prices in terms of oil.

All too often when bad things happen because of failures here in Washington, both parties generically blame it on the other and no one stands up and tries to put out what, where, why, and, most importantly, who is behind these bad policies. As an independent, I think that breeds a cynicism and an anger and a frustration on the part of the American people about the political system of our country.

Well, in this case, I think the American people deserve a little more of an explanation. It has been their hard-earned dollars that have been needlessly spent on $4 a gallon gasoline. It has been their hard-earned dollars that have been needlessly spent in the financial markets to bail out Wall Street.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The time is 11:55 a.m. The Senate stands adjourned until 1:30 p.m. for a Memorial Day recess.
former Senator Gramm, and for that matter Senator McCain, says that the people of this country should simply stand back and allow executives in Wall Street boardrooms to make decisions with no public oversight that have the potential of wrecking our economy and our taxpayers’ dreams. When they do them, let them do whatever they want in order to improve their bottom line, and the Government does not have to watch to see what the implications of their decisions are for our country or for our taxpayers.

I disagree with Senator Gramm’s perspective. People who want to gamble their own money are certainly welcome to do that. But when your actions have the ability to dry up credit for businesses all over our country, when your actions can dry up mortgages for people who desperately want to buy a home or stay in their home, when your actions depress the value of Americans’ savings, we need public oversight, and it should be tight. It should be with the primary mission being to protect the American public from the reckless greed that has brought us to where we are today.

In former Senator Gramm’s world view, all that comes to protecting the American consumer and the safety and soundness of our financial institutions, Government is not the answer, Government is the enemy, Government is terrible. But when banks fail, all of a sudden, Governmental intervention is no choice but to intervene to prevent the entire economy from collapsing. The Gramm-McCain version is one where profits are private, going to the very wealthiest people in this country, but risk is public, being assumed, by large, by the middle-class and working people of this country. It is socialism for the very rich, and free enterprise for everyone else.

Unfortunately, former Senator Gramm was not satisfied by having set up the dominos in 1999 that made our current financial crisis possible. In 2000, he decided his loot-and-burn economics had to be applied to the energy markets as well now. This is an achievement. First you go after deregulating the financial markets, and then you move to energy. And out of his efforts in energy, of course, the so-called Enron loophole was born. Senator Gramm, who was then Chairman of the Banking Committee, was one, if not the main proponent of the provision deregulating the electronic energy market that we now know as the Enron loophole.

Was this done through a deliberative process with debate and hearings? Actually, no. It was not. This very important provision was slipped into a massive unrelated bill with no discussion and no hearings, and the American people today are paying the price for that.

The Federal agency that oversees those energy markets was the Commodity Futures Trading Commission, the CFTC. Conveniently, the head of that agency at the time was a Wendy Gramm. Yes, you guessed it, it was his wife. And Wendy Gramm had become head of the CFTC after being on the board of directors of, well, you guessed it, the Enron Corporation. Even Hollywood could not come up with a plot quite so transparent.

The re-regulation of the energy markets has, according to many experts who have testified before Congress, allowed speculators on unregulated markets to artificially drive the cost of a barrel of oil up to over $147 a barrel.

My colleagues, including Senator Dorgan and Senator Cantwell, and many others, have laid out the way that speculators have driven up oil prices in many well-researched presentations here on the floor and a number of Senate committees. I applaud them for their leadership. But all of this speculation and all of the millions and billions of dollars that Americans have spent on exorbitantly priced gasoline wouldn’t have happened if it hadn’t been for the efforts of Senator Gramm pushing through the so-called Enron loophole.

As central as Senator Gramm was in creating the financing and energy disaster, he was also aided and abetted by the Bush administration’s willingness to simply look the other way. Even with all of the harm that has been done to the economy, President Bush still refuses to acknowledge it. One wonders what world he is living in.

And, shockingly, Senator McCain is singing from the same song sheet. On September 15, Senator McCain said:

The fundamentals of our economy are strong. Does that sound familiar? Well, it should. Since 2001, President Bush and members of his administration have repeatedly described the economy as strong and getting stronger: Thriving, robust, solid, booming, healthy, powerful, fantastic, exciting, amazing, the envy of the world.

Those are the adjectives used by the President and members of his administration over the last 8 years. What economy are they looking at? The fact is, when it comes to the economy, Senator McCain and President Bush do not get it. Is it a surprise to anyone that Senator Gramm, who, until fairly recently, was Senator McCain’s major economic adviser on his campaign, did not scruple to call Americans a “nation of whiners” who are suffering through a “mental recession”?

Was it a surprise? What is surprising is that Senator McCain is trying to pass himself off as a maverick when he looks to the same people, people such as Senator Gramm, who laid the groundwork for our current economic problems.

While Senator McCain and President Bush think the fundamentals of our economy are strong, while they talk about how robust things are, the reality is the middle class in this country is collapsing. And if we do not make the kind of bold changes we need to make, for the first time in the modern history of America our children will have a lower standard of living than we do.

We are looking at the American dream as an American nightmare. We are moving in the wrong direction economically as well as in so many other areas.

Since President Bush has been in office, nearly 6 million Americans have moved out of the middle class into poverty. How do you think the fundamentals are strong when 6 million more Americans enter the ranks of the poor? Since Bush has been in office, over 7 million Americans have lost their health insurance. Now well over 46 million Americans are without any health insurance at all, and even more are underinsured. Does that sound like the fundamentals of the economy are strong?

Since President Bush has been in office, over 3 million manufacturing jobs have been lost, total consumer debt has more than doubled, median income for working-age Americans has gone down over $2,000 after adjusting for inflation. They do not get or do not care that prices of gasoline, housing, food, college education, $350 more on their health insurance, and $200 a year more for food than before President Bush was in office.

In addition, home foreclosures are the highest on record, turning the American dream of home ownership into the American nightmare. The unemployment rate has skyrocketed. Since January of this year, we have lost over 600,000 jobs. Adding insult to injury, the national debt has increased by over $3 trillion, and we are spending $10 billion a month on the war in Iraq, making it harder and harder to do anything to help the struggling middle class.

Is it any wonder that Rick Davis, Senator McCain’s campaign manager, recently said: “This election is not about issues”? If my economic policies were to follow President Bush’s and the economy was in a state of near recession and unemployment was up and more families in poverty and more people were losing health insurance and more and more people were in debt, the foreclosure rate at the highest rate in American history, if all those things were happening, I would certainly also run on a campaign not having education, $300 more on those issues whatsoever. That is what I would do. I would run away from all of those issues. That is certainly John McCain’s strategy. Who can blame him?

John McCain claims to be offering change. But on issue after issue, he is offering more of the same—more tax breaks for the very rich, more unfettered free-trade agreements that will
cost our country millions of good-paying manufacturing jobs, more tax breaks to big oil companies ripping off the American consumer at the gas pump; in other words, more of George Bush’s failed policies that have led to a collapse of the middle class, an increase in poverty and a widening gap between the very rich and everyone else.

John McCain and George Bush may be right in one respect: If they are talking about the wealthiest people and the profitable corporations, the economy is fundamentally strong. Things could not be better for those people, that small segment of our society. In fact, one can make the case—and economists have—that the wealthiest people have not had it so good since the robber baron days of the 1920s.

Right now—this is really quite an astounding fact—the top one-tenth of 1 percent of income earners earn more income than the bottom 50 percent. That gap between the people on top, who are the party of fiscal responsibility above all, and the people who were in the middle class have been forced into poverty. Under President Bush, median family income went up by nearly $6,000. That is a lot of money. Under President Bush, median family income is going down.

The Republican Party for years has told us that its fiscal responsibility above all. Yet, under President Bush, the national debt has increased by more than $3 trillion. Under President Clinton, we had Federal surpluses as far as the eye could see. Under President Bush, we have had Federal deficits as far as the eye can see.

There is a clear choice to be made this year. That choice is, does Government work for all of the people, for the middle class for working families, for people who are struggling, or do we continue to develop policies which represent the people on the top who, in fact, have never had it so good since the 1920s?

The future of our country is at stake. I personally believe we cannot afford 4 more years of President Bush’s policies.

I yield the floor.

The PRESIDING OFFICER (Mr. SALAS). The Senator from North Dakota.

Mr. DORGAN. Mr. President, the wreckage all of us observed yesterday and the consequences of a 504 point drop in the stock market and the concern in this country about its economic future can be traced to a lot of things. I wish to talk about some of them for a few minutes. I want to show a couple charts that describe some of the origin of what has weakened this economy, and then I will talk about how this all happened.

Almost everyone in this country in recent years has seen ads like this from Countrywide, the biggest mortgage banker in the country. Countrywide had an advertisement that said: Do you have less than perfect credit? Do you have late mortgage payments? Have you been denied by other lenders? Call us.

Countrywide Bank, the biggest bank of its type in America, saying, essentially: You have bad credit? You need money? Call us. Most people would probably hear that, as I did over the years, and think: How can they do that? How does that work. You advertise that if people have bad credit, they ought to come to you.

Here is Millenia Mortgage. They said: Twelve months, no mortgage payment. That’s right. We will give you the money to make your first 12 payments if you call in the next 7 days. We pay it for you. Our loan program may reduce your current monthly payment by as much as 80 percent and allow no payments for the first 12 months. Call us today.

Here is a mortgage company saying: Come on over here, get a mortgage from us. We will give you a home mortgage. You don’t even have to make the first 12 months’ payments. We will make it for you. They don’t, of course, say here what they will do is stick that on the back of the mortgage and add interest to it. But that is what they are advertising.

Here is Zoom Credit. All of these are television, radio ads. They said:

Credit approval is just seconds away. Get on the fast track at Zoom Credit. At the speed of light, Zoom Credit will preapprove you for a car loan, a credit card. Even if your credit’s in the tank, Zoom Credit’s like money in the bank. Zoom Credit specializes in credit repair and debt consolidation too. Bankruptcy, slow credit, no credit—who cares?

That is what Zoom Credit was saying to customers. You got bad credit, you have been bankrupt, who cares? Come and get a loan from us. They say: We don’t care if you have bad credit.

In fact, here is what they also say: Get a loan from us. We will give you what is called a “low doc” loan or a “no doc” loan. If you have bad credit, we will give you a “low doc,” which means we will give you a home mortgage and you don’t even have to document your income for us. You don’t have to prove your income to us. That is called no documentation. Bad credit, come and get a loan from us. No documentation, that is OK. It is unbelievable.

I pulled this off the Internet. Perfect credit not required. No-income-verification loans. Pretty interesting, isn’t it? Come and get a mortgage from this company. You don’t have to verify your income, and you don’t need perfect credit. Here is a company on the Internet that wants to give you a home loan. It says: You can get 5 years’ fixed payments with a 1.25-percent interest rate. That is interesting, isn’t it? Of course, it is a 1.25-percent interest rate you get to pay. Again, bad credit? Come to us, we will give you a mortgage. You don’t want to document your income, that is OK. Bad credit and no documentation. And by the way, we will give you a 1.25-percent interest rate.

All of us, when we were kids, went to western movies from time to time. In virtually every movie, they had the guy who came into town with a couple old mules driving a slow wagon. He would wear them out, throw them in the mud, and he was selling snake oil. It cured everything from hiccups to the gout. He was selling snake oil from the back of his
wagon. This is not in an old western. These are companies on the Internet, on television, on radio.

I go back to Countrywide, the largest mortgage broker. Do you have less than perfect credit? Come to us. We want to get you a mortgage, a mortgage from us. That is what happened.

Now the stock market collapses on Monday. What is the relationship? The relationship is that our economy is reeling from the wreckage of the subprime mortgages. What does that mean, subprime loans? All of this starts with some brokers out there who are selling mortgages. Then they sell to it a mortgage bank, and then the mortgage bank securitizes it and sells it up to a hedge fund, and the hedge fund probably sells it to an investment bank. What they do is, they loan money to people with bad credit and provide no documentation or they loan money to people with good credit and give them teaser rates with resets and prepayment penalties that the people can’t possibly pay 3 years later and set them up for failure and then sell these loans in a security. As they used to pack sawdust in sausage, they pack bad loans with good loans. They slice them and dice them and sell them up the stream.

So now you have loans, a cold call to a person who had a home by a broker saying: You are paying 6 percent interest rate on your home mortgage? We will reduce that down to 2.5 percent. We will dramatically reduce your home mortgage monthly payment. And by the way, we are not going to emphasize this—in fact, we may just mention it in a whisper—ultimately, it is going to reset, and it will be 10 percent in 3 years. And by the way, you don’t have to document your income. At any rate, you can’t pay with your income at a 10-percent rate in 3 years, but it doesn’t matter, you can sell that home and flip it before then. Don’t worry about it. That is the kind of thing that was going on with an unbelievable amount of greed— with the brokers, with the mortgage companies, with the hedge funds, the investment banks, all grunting and snorting and shoving in the hog trough here. They were making massive amounts of money, and the whole thing collapsed, just collapsed.

Now, how does it happen that it helps cause a bankruptcy in France or a bank in California or a 504-point drop of the stock market here in the United States on Monday and so many other failures? Bear Stearns doesn’t exist anymore, Lehman Brothers is going bankrupt. I could go through them all. How is it that all of this is happening, all of this carnage and wreckage as a result of this greed?

Let me go back just a bit. Two things, it seems to me. No. 1, there are a bunch of folks who were fast talkers, who decided they were going to sell Congress on financial modernization. We have learned this lesson. This lesson existed in the 1930s. In the Roaring Twenties, it was “Katy, bar the door,” anything goes, and the economy collapsed into a Great Depression. Franklin Delano Roosevelt, with the New Deal, said: This isn’t going to happen again. Banks were failing. Banks were closing. Depositors couldn’t get their money. The New Deal repaired that economy by saying: We are going to separate commercial banking institutions from other risky enterprises. We are not going to let banks get engaged in real estate, insurance, commodity trading. We are not going to do that because this is the very perception of safety and soundness. Safety and soundness determines whether a bank is safe and sound. If you injure that perception by fusing risky enterprises—real estate, for example, and securities underwriting—with traditional banking issues, you do a great disservice to this country’s economy. So they were separated with the Glass-Steagall Act, for example.

In 1999 the Financial Modernization Act was passed. I was one of eight Members of the U.S. Senate to vote against it because it repealed the Glass-Steagall Act. Oh, they all promised firewalls. It didn’t mean a thing. I warned them then. These are the significant consequences of forgetting the lessons of the 1930s which are going to haunt us, and they are haunting us.

So what happens is they not only passed the Financial Modernization Act which repeals Glass-Steagall and the very things we put in place to protect against this sort of thing—the muffling of risky enterprises with banking—they not only do that, but George W. Bush wins the Presidency and he comes to town and he appoints regulators—i.e., Harvey Pitt to run the Securities and Exchange Commission, just as an example. What is the first thing he says when he gets to town? He says: I don’t understand that the Securities and Exchange Commission is a business-friendly place now. Right, well, that is what happened in virtually every area of regulation. People were appointed who didn’t have the foggiest interest in regulating. The whole mantra was to deregulate everything: Don’t look, don’t watch, don’t care. As a result, in virtually every single area, we saw this kind of greed and unbelievable activity develop across this country.

So now we went through this period with a housing bubble built up with these subprime mortgages, and then we saw the whole thing go sour and people wonder why. It is not surprising at all that it went sour. What is surprising to me is how so many interests got sucked in by this and how unbelievably damaging it has been to the American economy.

How could they have missed what was going to happen here? We had one of the biggest investment banks in the world that were buying securities that had bad value mixed in with securities, and they didn’t know it, they say. Where is the due diligence? How on Earth could that have happened?

Now, there is a kind of a no-fault capitalism and no-fault politics going on around here. No-fault capitalism—all of those folks who said: Get Government out of our bankers and run these big enterprises the way we want to run them. Then they run them into the ground, and they need to have the Federal Reserve Board open—for the first time in their history—a window for lending. If you are going to run, just as they do to regulated banks. Why? Because they were worried they were too big to fail. If an enterprise such as that is too big to fail, why is it too small to regulate? Why is it that all of the regulators sat on the sidelines while something that most people don’t even know about—$40 trillion in value of credit default swaps were out there, and much of it is as a result of dramatic borrowing and leverage. It is a house of cards with a big wind coming. And that wind can play havoc with this financial house of cards.

So the no-fault capitalism portion of it is that they do what they want to do—make a lot of money. We all know what the compensation has been: unbe- lievable money for those at the top who are running these organizations. Then it takes a nosedive, and a bunch of our bankers and others convene in New York and they just say: All right, who are we going to save, who are we going to let go? We can’t give who to? to a hedge fund, and the hedge fund probably sells to it an investment bank. Let’s get rid of Glass-Steagall. Let’s let commercial banks get engaged in securities underwriting and other risky activities. All of those folks are now saying: Well, we have to deregulate, we have to do this and that. Let’s ignore the lessons of the 1930s. Let’s get rid of Glass-Steagall. Let’s see how that goes. One foolish law after another. Well, we can’t even count that, and then they go to the hedge fund and say: Well, we can’t even count that. And then they say: Well, we can’t even count that. We have to get rid of Glass-Steagall. Let’s get rid of Glass-Steagall. Let’s deregulate.

Now, the no-fault politics portion of it is that is it they do what they want to do—make a lot of money. We all know what the compensation has been: unbelievable money for those at the top who are running these organizations. They are running around here thumping their suspenders saying: Well, we have to deregulate, we have to do this and that. Let’s ignore the lessons of the 1930s. Let’s get rid of Glass-Steagall. Let’s deregulate. Let’s deregulate.

The economy is not strong. The economy is dramatically weakened as a result of what these folks did to the economy and as a result of this administration’s decision that regulation is a four-letter word. I have news for them: Regulation has more letters than four, and regulation is essential to the functioning of this kind of Government. I believe in capitalism and the free market system. I don’t know of a better allocator of goods and services than the marketplace, but I also understand the marketplace needs a regulator. There need to be regulators who make certain that what the marketplace does isn’t too much. I believe in capitalism and no-fault politics going on around here. No-fault politics is very important. I believe in capitalism and the free market system. I don’t know of a better allocator of goods and services than the marketplace, but I also understand the marketplace needs a regulator. There need to be regulators who make certain that what the marketplace does isn’t too much. I believe in capitalism and no-fault politics going on around here.
know what will happen after yesterday. We don't know what will happen the rest of the week. We don't know what else is there. Some say the biggest reset of mortgages will occur in the fourth quarter of this year, which is very long past the time—this will not happen for another year. The sequence of all of this because this was a spectacular, unbelievable trail of greed that, in my judgment, has dramatically injured this country.

What is important now is for us to try to create some sort of a net to catch this economy and then put it back on track with really effective regulation—and decide that we are going to have sound business principles and we are going to relearn the lessons of the past. We shouldn't have to relearn them, but we will. We understood the lesson from the 1930s. We taught it in our colleges, about the fundamentally unsafe condition of merging risk with banks. Yet, I can recall when it was sold to the Congress as financial modernization. It was the kind of phrase that is used. It is OK for us to say what is wrong is those who were such cheerleaders for taking apart that which was to protect this country in the first place—Glass-Steagall and others. They knew better—should have known better—and what is wrong is those who aided and abetted and carried the wood in the last 7 years to say to regulators: Don't bother regulating. Get your paycheck. We will give you a paycheck. Just be friendly. Don't regulate. Don't look. Those who did that did a great disservice to this country, in my judgment.

Now, I recognize this is not a political system in which one side is always all right and one side is always all wrong. That is not the case. It just is not. Both political parties for a long time have contributed much to this country. But I would say this: We have been through a period that I think is devastating to this country’s economic future. A period that is running for the Presidency. But since Senator MCCAIN grabbed pictures like all of these things—there is certainly well. We like the notion that regulators were told not to regulate and complied aggressively. We like the notion that we is the root of the dramatic problems we now have: the failure of investments, the difficulty of all kinds of institutions that loaded up with this. Why did they load up? Because the people who sold these subprime mortgages put pre-payment penalties in them. They loaded them with very low interest rates at the front end and then a reset to very high interest rates on the back end—in most cases, 3 years and then put pre-payment penalties in them so they couldn’t get out of it. So when they securitized it and sold the security upstream to the hedge funds and the investment banks, they looked at that and said: This is really good. We have a huge, built-in, high income from these mortgage, and the borrower can’t get out of it because there is a prepayment penalty. That is why they paid premium for it. They thought they were getting rich. It was unfettered greed. They all made money in the short term, and the American economy takes a giant hit in the longer term.

Let me just say I don’t think this is a case that is like all other cases. We are challenged in lots of ways on many different days here in the Congress. This is a different challenge. This country’s economic future hangs in the balance, and the question is, Will we have the leadership? Will we exhibit the leadership to do this?

Mr. President, the answer has to be yes. We cannot decide no, maybe, maybe not. The answer has to be that this requires new, aggressive leadership. It requires all of us, and that is why I am going on now, and I happen to support Senator OBAMA. I think it is critically important to look at the history and the record of the candidates to find out who is going to support the kinds of leaders we need. We need leaders that are necessary to get this country back on track.

I have talked previously a couple times about John Adams’ description of trying to put a new country together with the help of John Adams. He traveled a lot and was in Europe as they were trying to put this new country together. He would write to his wife Abigail and say plaintively in letters: Who will provide the leadership for this new country of ours? Where will the leadership come from? Who will be the leaders? Then in another one he would lament that there is only us—me, George Washington, Ben Franklin, Mason, Madison, and Jefferson.

But it seems to me the American people understand that very well. When you see what is happening to the rest, there is something wrong with this economy.

Now, I have just described in some detail what happened to cause this subprime collapse. To most people—it was a surprise. To the people that are knowledgeable about the making of issues and about the commercial mortgages, they couldn’t believe it. By the way, they didn’t even pay that, in most cases, because they try to run their carried interests, as they call it, through tax-haven countries in a circumstance where they can defer compensation and avoid paying even the small 15 percent income tax rate. So when somebody comes home making $3.6 billion and the spot dividend today is $250 million. That is a far cry from what most American working people would understand or accept, in my judgment. When you see what is happening at the top compared to what is happening to the rest, there is something wrong with this economy.

Finally, let me just say I don’t think this economy is in significant peril. I know what happened to it. The question is, how do we fix this mess? How do we deal with the wreckage? I hope the debate we have—let me just say in this discussion about running for President, I have seen so much dishonesty with respect to the television commercials that have been run and the making of issues and about the phrases that are used. It is unbelievable to me. The one thing I will say I admire is that BARACK OBAMA—whom I have campaigned with in this country—is talking about the future, about issues that he thinks are rising up this country, which I think is so important at this point. We need that leadership now.
Mr. President, with that, I am going to speak later this week on some other issues. I wanted to talk today about the issue of the two points that I think have dramatically weakened this country: the bankruptcy of the financial Modernization Act. Eight of us—I myself included—voted against that in the Senate, believing that it would damage this country, and indeed it has. Second, the arrival of George W. Bush, who decided he didn’t believe in Government regulation. We now see the carnage and wreckage that has resulted from that. This country deserves government regulation. We now see the carnage and wreckage that has resulted from that. This country deserves better and will get better, in my judgment.

Mr. WHITEHOUSE. Mr. President, as we debate legislation to authorize more than $600 billion for our Armed Forces, we have a responsibility to the taxpayers who foot the bill to make sure that money is being used as carefully and as wisely as possible. Today I rise in support of an amendment offered by Senator SANDERS and cosponsored by myself and Senator FINGOLD that exposes unnecessary and wasteful spending within the Department of Defense and offers a solution.

From storage warehouses to assembly lines, the Department of Defense is sitting on dollars of unused components and supplies that are in excess of the military’s requirements—everything from jet engines to springs to fuel tanks.

The Navy, Air Force, and other Department of Defense agencies currently possess more than $13 billion in unused parts inventory. In addition, the Department of Defense currently holds more than $65 billion in excess supplies, including reports on the level of excess inventory that are on hand and on-order.

Our amendment would also require the Department of Defense to cut waste and fix the problem. This measure would require the Secretary of Defense to certify to Congress that the Army, Navy, Air Force, and Defense Logistics Agency have reduced by half their spare parts that are on-order and already labeled as excess. If this certification is not completed, the amendment would withhold $100 million from the defense budget for military spare parts.

Our amendment calls on the Department of Defense to cut waste and fix the problem. This measure would require the Secretary of Defense to certify to Congress that the Army, Navy, Air Force, and Defense Logistics Agency have reduced by half their spare parts that are on-order and already labeled as excess. Until this certification is completed, the amendment would withhold $100 million from the defense budget for military spare parts.

Our amendment would also require the Department of Defense to come up with a plan to reduce the acquisition of unnecessary inventory and improve its inventory systems. It would then require quarterly progress reports to Congress, including reports on the levels of excess inventory that are on hand and on-order.

Our troops deserve the best equipment and the best supplies we can give them to help them do their jobs and keep us safe. Leaving billions of dollars in spare parts and supplies that are on-hand and on-order just doesn’t serve that purpose. I urge my colleagues to support this commonsense, important amendment.

On the Senate in meeting our responsibilities, I rise today to express my thanks and appreciation to Chairman LEVIN and Senator WARNER for their outstanding efforts on the bipartisan National Defense Authorization Act for Fiscal Year 2009.

I would especially like to recognize Senator WARNER for his stewardship of this bill this year, and his determined role managing the bill on the floor over the last 40 years. His sage counsel and steady hand on the rudder are an invaluable asset to the Senate in meeting our commitment to our men and women in uniform.

I would like to thank the committee for supporting $1.3 billion in military personnel retirement funding and closure funding for Maryland’s military installations. This funding is especially critical to ensuring that the recent transition of Walter Reed Army Hospital to the National Military Medical Center in Bethesda, MD, stays on track. We owe it to our wounded warriors and their families to give them world class medical facilities that they deserve.

This bill also makes great strides in continuing to focus on the Dole-Shalala recommendations that outline the best courses of action for improving the quality of care for our wounded warriors. This bill requires the Department of Defense to establish Post Traumatic Stress Disorder and Traumatic Brain Injury Centers of Excellence and conduct pilot programs to better treat these disorders. The bill will also require that the Department of Defense develop uniform standards and procedures for disability evaluations of recovering service members across military departments. I commend the committee for continuing to focus on the quality of military health care a priority.

This legislation provides vitally important increases in authorized funding for the National Guard. I am very pleased that the committee increased the authorization for the National Guard to $96.7 billion for the National Guard. I am very pleased that the committee increased the authorization for the National Guard to $96.7 billion for fiscal year 2009.

Mr. REED. Mr. President, I commend the work of my colleagues on the Armed Services Committee on this important legislation which I hope President Bush will sign into law prior to the start of the fiscal year. In the tremendous time of transition for our military, we owe them a law that will enable the DOD to execute this year’s budget efficiently and effectively.

This bill provides a budget that allows the DOD to plan for future threats, combat current threats, and provide for the welfare of our brave veterans both past and future.

It should also be noted that this year’s bill and the authorization bills from the preceding 28 years could not have been completed without the statesmanship and the strong bipartisan leadership provided by Senator JOHN WARNER. This will be Senator WARNER’s final authorization bill during his nearly 30 years on the Senate Armed Services Committee, on which he also served as chairman and ranking member. In his nearly 60 years of serving our country both at home and abroad, he has always upheld his commitment to our brave service men and women with the highest standards of honor and integrity.

I would like to point out a few of the highlights of the National Defense Authorization Act currently being considered.

First, it authorizes a much needed 3.9 percent across-the-board pay raise for the brave men and women of our armed forces. This pay raise is a half percent higher than the 3.4 percent increase that was requested by President Bush:

Fully funds Army readiness and depot maintenance programs to ensure that forces preparing to deploy are properly trained and ready.

Authorizes $26.1 billion for the Defense Health Program, which includes...
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the $1.2 billion necessary to cover the rejection of the administration pro-
posal to raise TRICARE fees;

Requires the Secretaries of Defense and VA to continue the operations of the Senior Oversight Committee to oversee implementation of Wounded Warrior initiatives; and

Fully funds the eight ships requested in the President's budget, including full funding for the third ZUMWALT class destroyer. This ship is critical to maintaining technical superiority that our Navy has enjoyed on the oceans throughout the world. The future maritime fleet must be adaptable, affordable, survivable, flexible and responsive. The ZUMWALT class provides all of these characteristics as a multimission surface combatant, tailored for land attack and littoral dominance. It will provide independent forward presence, allow for precision naval gun fire support of Joint forces ashore, and through its advanced sensors and suite control of the combat air space. All of this capability is based on today's proven and demonstrated technologies. We cannot build the same ships that we did 20 years ago and hope to defeat tomorrow's emerging threats.

This year I once again had the honor of serving as the chairman of the Emerging Threats Subcommittee. Senator Dole served as the ranking member of the subcommittee and working together, our committee produced good results in the bill now before the Senate. The Emerging Threats and Capabilities Subcommittee is responsible for looking at new and emerging threats to our security, and considering appropriate steps we should take to develop new capabilities to face these threats.

In preparation for our markup, Senator Levin, the distinguished chairman of the committee, provided guidelines for the work of the committee, including two items:

1. Improve the ability of the armed forces to counter nontraditional threats, including terrorism and the proliferation of weapons of mass destruction, and
2. Promote the transformation of the armed forces to deal with the threats of the 21st century.

In response, our subcommittee recommended initiatives in a number of areas within our jurisdiction. These areas include:

1. Supporting crucial nonproliferation programs and other efforts to combat Weapons of Mass Destruction (WMD);
2. Supporting advances in medical research and technology to treat such conditions as traumatic brain injury and post-traumatic stress disorder;
3. Increasing investments in new energy technologies such as fuel cells, hybrid engines, and alternate fuels to increase military performance and reduce costs;
4. Increasing investments in advanced manufacturing technologies to strengthen our defense industrial base so that it can rapidly and efficiently produce the materiel needed by our Nation's warfighters; and
5. Increasing investments in research at our Nation's small businesses, Government labs, and universities so that we have the most innovative minds in our country working to enhance our national security.

Specifically, some notable initiatives in this bill that originated in the Emerging Threats and Capabilities Subcommittee include:

- Authorizing more than $120 million in the area of nonproliferation and combating weapons of mass destruction, including $50 million for denuclearization activities in North Korea; $30 million for the Cooperative Threat Reduction Program; and more than $50 million for chemical and biological defense programs.
- Consolidating funding for the Mixed Oxide, MOX, program in the National Nuclear Security Administration, NNSA, as a nonproliferation activity, rather than as part of the nuclear energy budget as the budget requested.
- Clarifying that fissile material disposition is an NNSA nonproliferation responsibility.
- Establishing a nonproliferation scholarship fund to deal with shortages in technical and other fields such as radiocarbon and nuclear forensics.
- Adding $25 million to nonproliferation research & development, R&D, for nuclear forensics and other R&D activities.
- Authorizing the Cooperative Threat Reduction Program and providing an additional $10 million for new initiatives outside of the former Soviet Union, $1 million for Russian chemical weapons demilitarization, and $9 million for nuclear weapons storage security in Russia to complete the work under the Bratislava agreement.
- The bill also includes a number of legislative provisions that will enhance the Department’s ability to procure and use critical defense technologies, such as:
  - Legislation that would implement recommendations of the National Academy of Sciences to help ensure that the DOD develops and procures printed circuit boards that are trustworthy and reliable for use in defense systems;
  - Legislation that would implement the recommendations of the Defense Science Board seeking to enhance the Department’s ability to ensure that microelectronics procured from commercial sources, including foreign sources, and embedded throughout defense systems are reliable and trustworthy; and
  - Legislation requiring the development of a joint government-industry battery technology roadmap to ensure that a healthy and innovative defense industrial base for batteries exists in the United States, to support a variety of niche applications such as military vehicles, computers, and other equipment.

- Relative to science and technology funding levels, the bill would increase the Department’s investments in innovative science and technology programs by nearly $400 million to over $11.8 billion; and fully support the Secretary of Defense’s initiative to increase university defense basic research funding and increase the level by nearly $50 million over the President’s request.

In the area of force protection, the bill includes a provision that would increase the amount and quality of testing performed on force protection equipment, such as body armor, helmets, and vehicle armor, before it is deployed to the field, to ensure that our soldiers and marines have the best available equipment and protection.

In order to enhance our ability to combat international terrorist groups, the bill would fully fund the $5.7 billion budget request, and add over $20 million for items to help find and track terrorists, including intelligence, surveillance and reconnaissance packages; extend authorization to the Special Operations Command to equip forces supporting or facilitating special operations forces in ongoing military operations, and increase the funding available for this activity; and increase funding for DOD’s Regional Defense Combating Terrorism Fellowship.

Concerning counterdrug programs, the bill includes a provision that would extend the authority to use counterdrug funds to support the Government of Colombia’s unified campaign against narcotics cultivation and trafficking, and against terrorist organizations involved in such activities. It also includes a provision that would extend the Department’s authority to use counterdrug funds to support law enforcement agencies conducting counterterrorism activities.

This is a good bill. The members of the committee and the committee staff have worked many hours to get this bill to the floor. We are a nation at war and the military needs this bill. I urge my colleagues to work together to pass it so that we can conference with the House and send it on to the President for his signature.

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

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

MORNING BUSINESS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate proceed to a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

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

Mr. DURBIN. Mr. President, today President Bush was in Texas to see firsthand the devastation from Hurricane Ike. Unfortunately, this is not the first time, nor will it be the last time, that Mother Nature has shown us her worst. My heart goes out to the millions of residents and evacuees who are anxious to return home, who are without power, who must depend on others for food and water and other necessities, and who face the long hard task of rebuilding their homes and communities.

We know a little of what that is like in Illinois. In June, the Midwest was hit by massive flooding, some of the worst we have seen since the Great Flood of 1993. Experts called it a 200 to 500-year event. It left entire communities underwater, broke levees, and washed away roads, bridges, and millions of acres of cropland. The damage could have been worse, if Illinoisans had not long and hard worked to fill sandbags, fortify levees, and stand their ground against the rising waters of the Mississippi.

But sometimes weather-related disasters strike with no warning and you don’t have time to prepare for the worst. Over the weekend my State was hit by the sixth major flooding event in the last year alone when 3 days of rain dumped more than 100 billion gallons of water on the city of Chicago, two or three times the total rainfall. More than 7 inches of rain fell on the Chicago area on Saturday alone, setting a new 1-day record at O’Hare. In the suburbs, some of the worst flooding was along the Des Plaines River, which crested at near-record levels, displaced thousands of residents, and flooded hundreds of homes.

On Monday I had a chance to see for myself the damage in Albany Park, a neighborhood in Chicago that was one of the areas. This morning Ward Alderman Margaret Laurino accompanied me as I met with residents like Aaron Gadiel, who waded through knee-high water in his fishing boots and searched his home to see if he could salvage clothing for his kids. I want to commend the local and city officials I saw going door to door with pumps, checking to see if residents needed help, and pitching in wherever they were needed. I especially want to thank the president of the Metropolitan Water Reclamation District, and Ray Orozco, executive director of Chicago’s Office of Emergency Management and Communications, OEMC, for taking the time to show me the extent of the flood damage.

The same weather system that dumped billions of gallons of rain on Chicago also caused the Mississippi and Illinois Rivers to swell in other parts of Illinois. U.S. Army Corps officials are keeping a close eye on the system of levees and dams that protect these communities to make sure that these residents don’t experience a repeat of the June floods.

Today the skies are clearing over Chicago. Water levels are falling, roads are reopening and some folks are returning home. But the recordbreaking rains that evacuated thousands, left four dead, closed roads and flooded homes have left more than a water mark. As Des Plaines Mayor Tony Arredia rightly pointed out, we still have cleaning up to do. I am committed to making sure that Illinoisans do not face this task alone.

TRIBUTE TO SECOND LIEUTENANT HOWARD CLIFTON ENOCH, JR.

Mr. McCONNELL. Mr. President, I rise today because often more than 60 years, a Kentucky family has been reunited with a father and grandfather they never knew. And an American hero is coming home.

Second Lieutenant Howard Clifton Enoch, Jr. of the U.S. Army Air Forces, was last seen on March 19, 1945. When he took off in his P-51D Mustang single-seat fighter plane for a mission over Germany. He crashed while engaging enemy aircraft near the city of Leipzic. His remains were immediately recovered, and once Soviet forces took over the part of that country that would become East Germany, including the area around Leipzic recovery became impossible for decades.

Howard Enoch III was born 3 months after his father’s plane crashed. He grew up in Marion, KY, never knowing his namesake. Now, thanks to the work of some dedicated men and women in the Department of Defense and his father’s remains have been identified.

A German researcher originally identified the crash site, and notified our Government. The Joint POW/MIA Accounting Command, the arm of the Department of Defense charged with recovering the remains of our lost heroes, sent a recovery crew to Germany. They used mitochondrial DNA analysis to identify the remains, and in 2007 they contacted Howard Enoch III with the astonishing news.

Howard Enoch III’s two young daughters gained new insight into their grandfather. And the discovery brought Howard in touch with a cousin he never knew, who had served alongside Second Lieutenant Enoch in Europe in World War II.

Now Second Lieutenant Enoch will be buried at Arlington National Cemetery, alongside America’s greatest heroes. And the Enoch family can know that after valiant service to his country, six decades later, a soldier will finally rest in peace. I wish to offer my deepest appreciation to Howard Enoch III for his father’s service and his family’s service to our country.

Earlier this month, the Bluegrass Chapter of Honor Flight paid special tribute to Second Lieutenant Enoch at the World War II Memorial in our Nation’s Capital. Honor Flight is a non-profit organization which transports veterans to visit the World War II Memorial. It would be hard to imagine a more fitting memorial for a World War II veteran than the place many of them fought and died to defend.

REPORT ON THE TOMB OF THE UNKNOWNS

Mr. AKAKA. Mr. President, I am pleased to share a report with our colleagues, which I received last month from the Departments of the Army and Veterans Affairs. The report addresses the need for a recommendation on the repair and preserving the Tomb Monument at the Tomb of the Unknowns. As many of our colleagues may know and appreciate, the Tomb is a national monument of great historical significance, especially to our Nation’s veterans. It was built for him, and his thousands of fellow soldiers. So I am glad that 63 years later, Honor Flight has recognized his service.

For a long time, the Enoch family has felt not only the loss of Second Lieutenant Enoch, but also doubt about his final fate. I am pleased for them that that doubt is over. They can take comfort that 2LT Howard Clifton Enoch, Jr. will lie among Arlington’s heroes. And they can take pride that this U.S. Senate honors his service and his sacrifice.
Alternative measures are being explored to address cracks in the Tomb of the Unknowns Monument at Arlington National Cemetery (ANC). The Tomb Monument is the four-piece marble object located over the vault containing the remains of the World War I Unknown, and is a component of the Tomb of the Unknowns. Section 2873 of the National Defense Authorization Act for Fiscal Year 2008, Public Law 110-181 (Act), directed the Secretary of the Army and the Secretary of Veterans Affairs to report to Congress on plans to address the cracks with respect to (1) replacing the Monument and its disposal, if it were removed; (2) an assessment of the feasibility and advisability of repairing the Monument rather than replacing it; (3) a description of current efforts to maintain and preserve the Monument; (4) an explanation of why no attempt has been made since 1989 to repair it; (5) comprehensive estimates of the cost of replacement and the cost of repair; and (6) an assessment of its structural integrity.

In 1963, ANC initiated a program of monitoring and investigation of the Monument in response to the discovery of parallel cracks in its main block. The cracks, which now measure nearly 48 feet in combined length, appear on all four sides of the Monument and extend through the block. According to stone conservation experts, the cracks are not compromising the structural integrity of the stone and are reversible. Repairs to the Monument were performed in 1975 and, again in 1989, and is now in the process of initiating another repair of the Monument. The results of studies and monitoring of the Monument in the past four decades confirm that, despite repairs, the cracks continue to lengthen and widen, which is perhaps a natural phenomenon of the material. Since 1990, a third crack has become visible, whose origins are uncertain. The Monument can be repaired again, but its condition will continue to deteriorate. Although it is not known when the Monument will reach the point of being beyond repair, the natural aging process that weathers and cracks outdoor masonry may be expected to eventually determine that it will need to be replaced at some point in the future. The cracking and minor erosion of the Monument have led ANC to consider various treatment options, including repairing the cracks, obtaining and stockpiling marble for future replacement of the monument, and the immediate replacement of its cap, die block, and base.

The impetus to consider various treatment options for the Monument is the culmination of 40 years of deliberation, starting with the first report on the cracks in the early 1960s, and continuing through the two previous repairs. In evaluating whether to continue to maintain and preserve the Monument or replace it, ANC is giving full consideration to its historic significance. ANC recognizes the associative qualities that link the Monument to World War I veterans. ANC also realizes that the Tomb of the Unknowns has come to memorialize all of the service men and women who have sacrificed their lives in the frequent military conflicts that continue today. In this regard, the Tomb of the Unknowns has significance, beyond its historic significance, that transcends the past and present to the future. As its steward, ANC is responsible to do what it can to ensure that the Monument stands, as unflawed and perfect as possible, in honor of the sacrifices of its service men and women.
I. Purpose and Summary of the Legislation

The purpose of S. 3406, the "ADA Amendments Act," is to "clarify" and "strengthen" the definition of "disability" contained in Title I of the Americans with Disabilities Act (ADA) of 1990. The bill affirms the "broad standard" established by the Supreme Court in its 1999 decision in Sutton v. United Air Lines, Inc., and it broadens the definition of "disability" to include impairments that are episodic or in remission.

The Senate Committee on Health, Education, Labor, and Pensions included this provision because it would allow the 'final course of action' to be taken to replace the current Monument if it is needed. The present bill does not specify what that course of action might be because some districts might call for a different procedure than the one recommended by the National Park Service.

The bill would provide a comprehensive national mandate for the elimination of discrimination on the basis of disability, business, and education communities in the United States. It would protect the rights of individuals with disabilities, regardless of whether they are employed or are seeking employment. It would also provide a legal basis for individuals who are disabled to sue for discrimination.

S. 3406 is the product of an extensive bipartisan effort to clarify and strengthen the definition of disability. It establishes a clear and concise definition of disability that is consistent with federal laws and regulations.

The Senate Committee on Health, Education, Labor, and Pensions, in its support of this bill, affirms its commitment to protecting the rights of individuals with disabilities.

STATEMENT OF MANAGERS—S. 3406

Mr. HARKIN, Mr. President, I ask unanimous consent that this Statement of Managers be printed in the Record with its endnotes.

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

II. Background and Need for Legislation

When Congress passed the ADA in 1990, it adopted the functional definition of disability from the Section 504 of the Rehabilitation Act of 1973, in part, because after 17 years of development through case law the requirements of the definition were well understood. Within this framework, with its generous and inclusive definition of disability, courts treated any limitation of disability as a threshold issue but focused primarily on whether unlawful discrimination had occurred. More recent Supreme Court decisions imposing a stricter standard for determining disability had the effect of upsetting this balance. After the Court's decisions in Sutton v. United Air Lines, Inc. and Arkansas v.iclaimed that an individual's state of health did not constitute a disability. As a result, in too many cases, courts would never reach the question whether discrimination had occurred.

Thus, some 18 years later we are faced with a situation in which physical or mental impairments that would previously have been

With this rule of construction and relevant purpose language, the bill rejects the Supreme Court's holding in Toyota v. Williams that the terms "substantially" and "major" in the definition of disability must be interpreted strictly to create a demanding standard for qualifying as disabled, as well as the Court's interpretation that "substantial" means "prevents or severely restricts." Third, the bill prohibits consideration of mitigating measures such as medication, assistance, technology, accommodations, or adjustments when determining whether an impairment constitutes a disability. This provision and relevant purpose language rejects the Supreme Court's holdings in Sutton v. United Air Lines, Inc. and Arkansas v. Williams.

Contents:

1. Purpose and Summary of the Legislation
2. Background and Need for Legislation
3. Legislative History and Committee Action
4. Explanation of the Bill and Committee Views
5. Application of the Law to the Legislative Branch
6. Regulatory Impact Statement
7. Section-by-Section Analysis

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Thus, some 18 years later we are faced with a situation in which physical or mental impairments that would previously have been
found to constitute disabilities are not con-
idered disabilities under the Supreme
Court's narrower standard. These can in-
clude individuals with impairments such as
amputations, physical disabilities, epi-
lepsy, multiple sclerosis, diabetes, muscular
dystrophy, and cancer. The resulting court
decisions contribute to a legal environment
in which individuals with physical disabili-
ties are able to participate to the fullest possible extent in all
facets of society, including the workplace.
We acknowledge and applaud the substantial
improvements in medical science and the
courages individuals with dis-
abilities to overcome the impact of those
disabilities, but in no way wish to exclude
them thereby from protection under the
ADA. By retaining the essential elements of the
definition of disability including the key
term “substantially limits” we reaffirm that
that every individual with physical or men-
tal impairment is covered by the first prong
of the definition of disability in the ADA. An
impairment that does not substantially limit
a major life activity is not a disability under
this prong. That will not change after enact-
ment of the ADA Amendments Act, nor will
the necessity of making this determination
being lowered the standard for determining
whether an impairment con-
stitutes a disability that the definition of disability in the ADA is to be interpreted broadly and in-
consistently.10 FINDINGS AND PURPOSES
Given the importance the Court has placed
upon findings and purposes particularly in
civil rights statutes like the ADA, the ADA
Amendments Act contains a detailed Find-
ings and Purposes section that the managers
believe gives clear guidance to the courts
that they intend to be applied appro-
riately and consistently. As described
above, the legislation deletes two findings in
the ADA that have been interpreted by the
Supreme Court to require a narrow defini-
tion of disability. We continue to believe
that, as a result of the legislation, there will be
faced with restrictions and limitations, sub-
jected to a history of purposeful unequal
reatment, and relegated to a position of po-
litical powerlessness in our society, based on
characteristics that are beyond the control
of such individuals and resulting from
stereotypic assumptions not truly indicative
of the individuality of such individuals and the
people they wish to associate with.11 In
addition to deleting the findings form-
ing the basis of the Sutton and Toyota deci-
sions, the bill states explicitly its purpose to
reject the holdings in those cases (and their
progeny), thereby leaving substantially
covered by the ADA. To be clear, the purposes
section conveys our intent to clarify not only
that “substantially limits” should be measured by a lower standard than that used
in Toyota, but also that the definition of
disability should not be unduly used as a
tool for excluding individuals from the
protections of the ADA.

The bill expresses the clear intent of Con-
gress that the EEOC will revise its regula-
tions that similarly improperly define the
definition of disability, and says that the EEOC shall con-
duct a review of “substantially restricted”; again, this sets too high
a standard.
The bill’s purposes also reject the Supreme
Court’s holding that mitigating measures
must be considered when determining wheth-
er an impairment constitutes a disability.
With the exception of ordinary eyeglasses
and contact lenses, impairments must be
examined in their unmitigated state.

These purposes are specifically incor-
porated into the statute by the rule of con-
struction that the term “substanti-
ally limits” shall be construed consistently
with the findings and purposes of the ADA
Amendments Act of 2008. This rule of con-
struction ensuring that the definitions
construction providing that the definition of dis-
ability shall be construed in favor of broad
coverage of individuals sends a clear signal of our intent that the courts must interpret
the definition of disability broadly rather than
stringently.

DEFINITION OF DISABILITY
In the ADA of 1990, Congress sought to pro-
tect anyone who experiences discrimination
because of a current, past, or perceived
 disability. Under the ADA, there are three
parts of the definition of disability, with
respect to an individual:

1. a physical or mental impairment that
substantially limits one or more of the
major life activities of an individual;
2. a record of such an impairment; or
3. being regarded as having such an
impairment.

The definition is of critical importance be-
cause as a threshold issue it determines
whether an individual is covered by the
ADA. The ADA Amendments Act retains the
definition of disability but further defines and clarifies three critical terms within the
existing definition (“substantially limits,”
“major life activities,” “regarded having
such impairment”), and, under the rules
of construction for the definition, adds several
standards that must be applied when consid-
ering the definition of disability.

Physical or mental impairment

The bill does not provide a definition for the
terms “physical impairment” or “mental
impairment.” The managers expect that
the current regulatory definition of these terms, as promulgated by agencies such as the U.S.
Equal Employment Opportunity Commission
(EEOC), the Department of Justice (DOJ)
and the Department of Education Office of
Civil Rights (DOE OCR) will not change.13

Substantially limits

We do not believe that the courts have cor-
rectly instituted the level of coverage we in-
tended to establish with the term “substanti-
ally limits” in the ADA. In particular, we
believe that the level of limitation, and the
intensity of focus, applied by the Supreme
Court in Toyota goes beyond what we believe
is the appropriate standard to create cov-
rage under this law.

We have extensively deliberated with re-
gard to whether a new term, other than the
term “substantially limits,” should be used
in this Act. For example, in its ADA Amend-
ments Act, H.R.3195, the House of Represen-
tatives attempted to accomplish this goal by staltating that the key term “substan-
tially limits” means “materially restricts” in
order to convey that Congress intended to
depart from the strict and demanding stand-
ards applied by the Supreme Court in Sutton
and Toyota.14 We have concluded that adopting a new,
undefined term that is subject to widely dis-
parate meanings is not the best way to achieve the goal of ensuring consistent and
appropriately broad coverage under this Act. The resulting need for further judicial scru-
iny of the Act (along with the current EEOC regulation) is to re-
tain the words “substantially limits,” but clarify that it is not meant to be a demand-
ing standard. In addition, we believe eliminat-
ing the source of the Supreme Court’s de-
cisions narrowing the definition and pro-
viding more appropriate findings and pur-
poses is a more effective way to accomplish our goal without introducing novel statutory terms.

We believe that the manner in which we under-
take the definition of “substantially limits” in 1990 continues to capture our sense of the appropriate level of coverage
under this law for purposes of placing on em-
or other covered entities the obli-
gation of providing reasonable accommoda-
tions and modifications to individuals with
impairments or who they can be performed in
comparison to most people. A person who
can walk for 10 miles continuously is not
substantially limited in walking merely be-
cause he or she begins to experience pain because
most people would not be able to walk eleven miles
without experiencing some discomfort.17 S. Rep.

We particularly believe that this test,
which articulated an analysis that consid-
ered whether a person's activities are lim-
ited in a significant way, corrects those courts
that established an inappropriate functionality
test or failed to recognize that the definition of
impairment must be interpreted in context.
The purpose of the second prong is to
redirect those courts that have required individu-
als to show that an impairment substantially
limits one major life activity to be
categorized as a "major life activity" under the
ADA. First, a rule of construction clarifi-
cates that the definition of disability must be
interpreted broadly and that the term "substantially
limits" must be interpreted accordingly.
This construction is also intended to
clarify that the rule of construction requires
those courts that have interpreted the
definition of disability in the overly stringent
manner in which the courts should continue to
rely on this standard. We also believe that an individual with an
impairment that substantially limits a
major life activity is entitled to protection under the
ADA. When considering the
criteria that define an individual with a
disability, the category of "major life activities
" is not significant enough to warrant protec-
tion under this bill. Therefore, the bill articulates an analysis
that..

**Major life activities**

The bill provides significant new guidance
and clarification on the subject of major life activities.
We reiterate that the correct standard—on
which we relied extensively in the

case of Arline18—is not available where
an individual's activities are substantially
limited. Thus, the bill clarifies that contrary
to the S. Rep.
No. 101-14, (1989), a person who
qualifies for coverage under the ADA solely
by being "regarded as" disabled.

**Mitigating measures**

The bill also provides consideration of
the ameliorative effects of mitigating measures
when determining whether an individual's
impairment substantially limits a major life activity,
overturning the Supreme Court's
decision in Sutton and its companion cases.
This provision is intended to eliminate the
circumstances described in current law in which
impairments that are mitigated do not con-
stitute disabilities but are the basis for
discrimination.
We expect that when such miti-
gating measures are ignored, the individual
previously found not disabled will now
be able to claim the ADA's protection
against discrimination.

The legislative history includes an illustrative
but non-comprehensive list of the types of miti-
gating measures that are not to be
considered. The list includes minor
devices, which are devices that magnify,
ence, or otherwise augment a visual image,
such as magnifiers, closed circuit television,
larger-print items, and instruments that
provide voice instructions. The absence of any
particular mitigating measure from this list
should not convey a negative implication as
to whether the measure is a mitigating measure under the
ADA.

We also believe that an individual with an
impairment that substantially limits a
major life activity should not be penalized
when seeking protection under the ADA sim-
ply because he or she managed their own
adaptative strategies or received accommoda-
tions outside of their workplace, such as
(1) those that have the effect of lessening
the deleterious impacts of their disability.
The bill provides one exception to the rule
on mitigating measures and allows that o-
dinary eyeglasses and contact lenses are to
be considered in determining whether a person
has a disability. The rationale behind this
difference is that the use of
eyeglasses or contact lenses, without more,
is not significant enough to warrant protec-
tion under the ADA, whereas an ap-
clicant or employee is faced with a qualifica-
tion standard that requires uncorrected vi-
sion (as the sisters in the Sutton case were),
after which the courts were to demonstrate that the qualification standard is job-related
and consistent with business necessity.

**Regarded as**

Under this bill, the third prong of the dis-
ability definition will apply to impairments,
not only to disabilities. As such, it does not
require a functional test to determine
whether an impairment substantially limits
a major life activity. Under the
first prong, the definition of disability
was meant to express our understanding that
unfounded concerns, mistaken beliefs, fears,
myths, or prejudice about disabilities are
often just as disabling as actual impair-
ments, and our corresponding desire to
provide reasonable accommodations to
those with disabilities is necessary.
In 1990, we relied extensively on the
reasoning of School Board of Nassau County
v. Arline18 that the negative reactions of others
are just as disabling as an actual
impairment. This legislation re-
states our reliance on the broad views enun-
ciated in that decision and we believe that
this provision responds to concerns
that should continue to rely on this
standard.

We intend and believe that the fact that an
individual was discriminated against because
of a disapproved or actual impairment is suf-
ficient. Thus, the bill clarifies that contrary
to Sutton, an individual who is "regarded as
having such an impairment" is not subject
to a functional test. If an individual estab-
lishes that he or she was subjected to an
action prohibited by the ADA because of an
actual or perceived impairment—whether
the person actually has the impairment or
whether the impairment constitutes a dis-
ability—then the individual will qualify for
protection under the Act.

**Accommodations**

The bill establishes that entities covered
under the ADA do not need to provide rea-
sonable accommodations under Title I or
Title II or III when an individual
qualifies for coverage under the ADA solely
by being "regarded as" disabled.

**Transitory and minor**

We believe that an exception that clari-
fies that coverage for individuals under the
"regarded as" prong is not available where
an individual's impairment is both transi-
tory (six months or less) and minor.
Providing this exception responds to concerns raised by employer organizations and is rea-
sonable under the "regarded as" prong of the
definition. A minor impairment is defined as
one that the definition is unnecessary as the func-
tional limitation requirement already ex-
cludes claims by individuals with ailments
that are minor and short term.

**Accessibility**

The bill establishes that entities covered
under the ADA do not need to provide reason-
able accommodations under Title I or
modify policies, practices, or procedures
under Titles II or III when an individual
qualifies for coverage under the ADA solely
by being "regarded as" having a disability under the
third prong of the definition of dis-
ability. Under current law, a number of

courts have required employers to provide reason-
able accommodations for individuals who are
"regarded as" disabled. Because the

courts have been interpreting that prong.
Because of our strong belief that accommo-
dating individuals with disabilities is a key
good and that the ADA should continue to
have reservations about this provision.
However, we believe it is an acceptable com-
promise given our strong expectation that
individuals would now be covered under the
first prong of the definition, properly ap-
plied.
The bill amends Section 102 of the ADA to mirror the structure of nondiscrimination protection provision in Title VII of the Civil Rights Act of 1964. It changes the language from "reasonably accommodates a qualified individual "with a disability because of the disability of such individual to prohibiting discrimination against a qualified individual "with a disability, because of the disability of such individual". This ensures that the emphasis in questions of disability discrimination is properly on the critical inquiry of whether a qualified person has been discriminated against on the basis of disability, and not unduly focused on the preliminary question of whether a particular person is a "person with a disability." The bill ensures that the definition of disability is not unduly focused on the critical inquiry of whether a qualified individual "on the basis of disability." 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This ensures that the emphasis in questions of disability discrimination is properly on the critical inquiry of whether a qualified person has been discriminated against on the basis of disability, and not unduly focused on the preliminary question of whether a particular person is a "person with a disability."
Amendments Act of 2008. The bill was placed on the Senate calendar (under general order/pursuant to Rule XVII).

V. Application of the Law to the Legislative Branch

Section 141 of the Public Law 104-1, the Congressional Accountability Act (CAA), requires a description of the application of this bill to the legislative branch. S. 3694 does not amend any act that applies to the legislative branch.

VI. Regulatory Impact Statement

The managers have determined that the bill may result in some additional paperwork, time, and costs to the Equal Employment Opportunity Commission, which would be entrusted with implementation and enforcement of the act. It is difficult to estimate the volume of additional paperwork necessity by the bill, but the committee does not believe it will be significant. Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the committee has determined that the bill will not have a significant regulatory impact.

VII. Section-by-Section Analysis

Sec. 1. Short Title. This Act may be cited as the “ADA Amendments Act of 2008.”

Sec. 2. Findings and Purposes. Acknowledges Congressional intent of the Americans with Disabilities Act of 1990 (ADA) to “provide comprehensive and inclusive federal legislation to eliminate discrimination against individuals with disabilities” and to provide broad coverage, and that the U.S. Supreme Court subsequently erroneously narrowed the definition of disability in a series of cases. The purposes of the Act are to reinstate a broad scope of protection, to make available under the ADA, to reinstate several Supreme Court decisions, and to establish original Congressional intent related to the definition of disability.

Sec. 3. Amendments to the ADA. Amends one finding in the ADA to acknowledge that many people with physical or mental impairments have been subjected to discrimination, and striking one finding related to describing the population of individuals with disabilities as “a discrete and insular minority.”

Sec. 4. Rules and Rules of Construction. Amends the definition of “disability” and provides rules of construction for applying the definition. The term “disability” mean, with respect to an individual, a physical or mental impairment that substantially limits one or more major life activities, a record of such impairment, or being regarded as having such an impairment; provides an illustrative list of “major life activities” including major bodily functions; and defines “regarded as having such an impairment’ as protecting individuals who have been subjected to an action prohibited under the ADA because of an actual or perceived impairment, whether or not the impairment limits or is perceived to limit a major life activity.

Sec. 5. Discrimination on the Basis of Disability. Prohibits discrimination under Title I of the ADA “on the basis of disability” rather than “against a qualified individual with a disability because of the disability of such individual.” Clarifies that covered entities that use standards based on uncorrected vision must show that such a requirement is job-related and consistent with business necessity.

Sec. 6. Building Construction. Provides that nothing in this Act alters the standards for determining eligibility for benefits under State worker’s compensation laws or other disability benefit programs. Prohibits reverse discrimination claims by disallowing claims based on the lack of disability. Provides that nothing in this Act alters the provisions in Title I that a modification of policies or practices is not required if it fundamentally alters the nature of the service being provided. Establishes that entities covered under all three titles of the ADA are not required to provide reasonable accommodation or modifications to an individual who meets the definition of disability only as a person perceived as having such an impairment.” Authorizes the EEOC, Attorney General, and the Secretary of Transportation to promulgate regulations implementing the definition of disability and rules of construction related to the definition.

Sec. 7. Conforming Amendments. Amends Section 7 of the Rehabilitation Act of 1973 to cross-reference the definition of disability under the ADA.

Sec. 8. Effective Date. Amendments made by the Act take effect January 1, 2009.

September 16, 2008

TOM HARKIN,
U.S. Senator.

JEFF HARKER,
U.S. Senator.

Endnotes


2. This rule of construction is consistent with the Supreme Court’s interpretation of the Rehabilitation Act, 29 U.S.C. §§ 791, 793.


4. Id. at 197.

5. Id. at 198. See also, 29 CFR 1630.2.


8. 527 U.S. at 479 (1999).

9. For example, an individual with diabetes might demonstrate coverage by showing either that he was substantially limited in endocrine functioning or that his diabetes substantially limited a major life activity, such as eating or sleeping.

IDAHOANS SPEAK OUT ON HIGH ENERGY PRICES

Mr. CRAPO. Mr. President, in mid-June, I asked Idahoans to share with

September 16, 2008
me how high energy prices are affecting their lives, and they responded by the hundreds. The stories, numbering over 1,000, are heartbreaking and touching. To respect their efforts, I am submitting every email sent to me through energyprices@crapo.senate.gov as an appendix to this Record.

This is not an issue that will be easily resolved, but it is one that deserves immediate and serious attention, and Ida-hoans deserve to be heard. Their stories vividly detail their struggles to meet everyday expenses, but also provide suggestions and recommendations as to what Congress can do now to tackle this problem and find solutions that last beyond today. I ask unanimous consent to have today’s letters printed in the Record.

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

Thank you for requesting my input on the energy crisis. I have cut several years ago that energy prices were going to skyrocket due to the imminent peaking of oil production (and natural gas) worldwide. I read every book on the subject of the coming energy crisis such as “Twilight in the Desert”, “The Party’s Over”, “The Long Emergency”, “Big Coal”, “Powerdown”, and probably 15 others. I read most every relevant news story as collected by www.energybulletin.net.

I have heard the pleas from Al Gore, Bill Clinton, Matt Simmons, Rep. (R) Jesse Bartlett (Maryland) and many other prominent Americans who want our citizens to know the truth about Peak Oil Theory, and the implications of the global peak and inevitable decline in production.

I have since sold my car, my house, and am living with massive inflation, food and gasoline shortages, and likely economic collapse in mind. I am growing a large garden this year and riding my bicycle(s) most everywhere. I have met with local leaders, including Boise Mayor Dave Bieter, to talk about real solutions, and have written letters to the editor of the Idaho Statesman monthly.

We have no choice left but to locally, produce and distribute most goods and materials we need. Keep people employed doing things to create and expand our new localized economy. We need to accept that our ability to produce and distribute most goods did not have to be shipped to a nuclear waste repository, we would have plenty of space in places like Yucca Mountain. Apparently, only 2% of the byproducts from nuclear power go to actors willing to clean up such facilities. As an aside, France produces 80% of its electricity from nuclear power. What in the world is holding us back from building more nuclear power plants?

Please do whatever you can to bring about changes at the federal level so that the private sector can go to work developing technologies and resources to solve our growing energy problems. I agree that we are “too dependent on petroleum,” and that we are “far too dependent on foreign sources of that petroleum.” I am all in favor of tapping the petroleum resources we have here in the United States and, from all that I have heard, we have (or can soon develop) the technology to produce from what I refer to as the byproducts of the environment. I understand that Congressman Chris Cannon of Utah is making efforts to develop oil shale fields that are located under Utah, Colorado and Wyoming. I support this and hope that you will uphold these efforts if corresponding legislation reaches the Senate. You have recognized incentives that would encourage companies to come up with more environmentally friendly methods of developing these resources.

I support our use of nuclear energy. My understanding is that the popular fears of nuclear power plants are largely based on myth. And by most of the “waste” produced is either relatively benign, or can be recycled or reused. If federal regulations were changed so that all radioactive byproducts didn’t have to go to nuclear waste repository, we would have plenty of space in places like Yucca Mountain. Apparently, only 2% of the byproducts from nuclear power go to actors willing to clean up such facilities. As an aside, France produces 80% of its electricity from nuclear power. What in the world is holding us back from building more nuclear power plants?

A few years ago I needed to re-do a roof. I considered solar panels and energy conservation devices. It added a lot of costs, but I thought that it was worthwhile if I could get a bit of a tax break. I contacted the state, power company, gas company, and checked the Internet for federal tax breaks. There weren’t any for individuals. The lady with the state simply stated that “they do not do things that way.” I felt this was short-sighted at the time, and, as things are now, my opinion seems to be correct. I do not foresee a turn around any time soon. Why does not the legislature encourage the gas and power companies to offer incentives? We are all for our friends and neighbors to save money and energy, but the incentives are not there. In fact, the legislatures offer tax incentives to individuals instead of to major corporations?

The engine that drove America to its current prosperity was the efficiency and industry of the every day American. Release it! Encourage people to come up with their own energy saving ideas and devices. At least, stop blocking individual efforts that the lady at the energy corporation has pointed to individual ingenuity. It is not in their respective interests to encourage such action. I feel that this is short-sighted at this time, but I could respect that if the economic pain of the individual is shared by the existing energy corporation executives and current legislators, little more than lip service can be expected. Some said that $5/gallon would wake us all up and cause change to occur. The fallacy in this logic is that the $5/gallon is increased profits and corporate profits are not what individuals care about. There is economic pain all right, but the pain is not felt by the folks who initiate changes. Here is a radical proposal: Remove the excise tax on fuel related to oil and some other energy corporations. (Windfall profits are possible, but I am not recommending them.) Offer the same amount as corporate tax to the folks who begin in the form of worthwhile individual energy grants and can be emergency economic tax credits in places like the Midwest. You are probably aware that there have been significant floods in the Midwest. You are probably aware that this is expected to affect the cost of energy in this region. If the same tax is applied in the same type of economic pain as the current “Gas Crisis.” The fund might be an “Economic Crisis” fund. I have little doubt that there are many other economic crises that will occur.

The engine of America is in need of maintenance. This maintenance is needed at the individual level. The Economic Crisis fund can provide for maintenance, and some improvements. Once the engine of America stops running, the entire world is going to see our real economic level. I imagine the most short sighted world leaders will transfer this economic pain into other kinds of pain. Somebody else will be blamed and punitive action started.

Here is another consideration. Some say that the cost of gas is based on speculation. If this is true, a disincentive can easily be added to dampen speculative zeal in the form of capital gains taxes. There are long and short term capital gains. Let us add another 15% tax to capital gains. Extend long term capital gains taxes to five years. This will allow reasoned investments. Keep the tax rate on these low. Speculators will not go away short term. We can ameliorate the speculation profits. No doubt there will be howls, but then there will be an adjustment, and the overall effect could be that market manipulation will be discouraged, while prudent or targeted investment is encouraged. The tax code would also need to be amended.

Sincerely,

BLAKE Haner.

A radical proposal: Remove the excise tax on fuel related to oil and some other energy corporations. (Windfall profits are possible, but I am not recommending them.) Offer the same amount as corporate tax to the folks who begin in the form of worthwhile individual energy grants and can be emergency economic tax credits in places like the Midwest. You are probably aware that there have been significant floods in the Midwest. You are probably aware that this is expected to affect the cost of energy in this region. If the same tax is applied in the same type of economic pain as the current “Gas Crisis.” The fund might be an “Economic Crisis” fund. I have little doubt that there are many other economic crises that will occur.

The engine of America is in need of maintenance. This maintenance is needed at the individual level. The Economic Crisis fund can provide for maintenance, and some improvements. Once the engine of America stops running, the entire world is going to see our real economic level. I imagine the most short sighted world leaders will transfer this economic pain into other kinds of pain. Somebody else will be blamed and punitive action started.

Here is another consideration. Some say that the cost of gas is based on speculation. If this is true, a disincentive can easily be added to dampen speculative zeal in the form of capital gains taxes. There are long and short term capital gains. Let us add another 15% tax to capital gains. Extend long term capital gains taxes to five years. This will allow reasoned investments. Keep the tax rate on these low. Speculators will not go away short term. We can ameliorate the speculation profits. No doubt there will be howls, but then there will be an adjustment, and the overall effect could be that market manipulation will be discouraged, while prudent or targeted investment is encouraged. The tax code would also need to be amended.

Sincerely,

KELLY.

We would like to express our concern over Congress’ reluctance to address the energy crisis. Rather than blaming companies for making an 8½% profit, you should all be blaming yourselves for your lack of foresight. The law of supply and demand is well understood out here, but Washington does not seem to grasp it. Drill . . . off-shore, ANWR, coal-to-oil, nuclear, solar, wind, shale oil. In short, go to work on the problem instead of talking it to death. Immediately lift your restrictions on drilling here.

Our propane went from $2.14 every three weeks this winter, to $3.05 last winter. We are broke. Between my physical inability to work, (but not disabled enough to draw disability), my husband’s $10 an hr. job, our mortgage, utilities, transportation costs, property taxes, auto insurance, home owner’s insurance, medical insurance, and auto insurance, we now find ourselves with no grocery money. Our daughter, tax rebates, unexpected refund of medical overpayment, (God), have fed us the first half of this year.

Tell your colleagues that there are real people out here that do not make hundreds of thousands of dollars a year, (of course, if we could set our own wages, we would), but try to live on a gross of $20,000 a year. Our friends and neighbors are beginning to suffer. This is the first time in many years that we have had to worry about our next week’s groceries. We are agonizing over whether to drop medical coverage, but that is so frightening.

Thank you for listening.

Sincerely,

CHARLES and WANDA.
fixed income stretch through the entire month. We only drive when absolutely neces-
sessary for doctor’s appointments and shop-
ip. If we forget something at the store, we have to go without until the next time. It
is necessary for doctor’s appointments and shop-
long term effect is that opens the ANWR and at the same time
that would have the immediate effect of
my undergraduates degree without
out the necessary fuel cost $5.00 to fill our tank in our mid-size car
last time. The thought of gas reaching $6.00 or even $8.00 per gallon makes us wonder how
we will pay for it. We do not use public service in Hayden, and being disabled are
able to walk to the nearest store which is a couple of miles away.

We are wondering if you support Newt Gingrich’s “Drill Here. Drill Now. Pay Less.”
proposition so far.
Thank you.
Respectfully,
MIKE AND MARY.

This Congress has a terrible record when it
comes to sensible solutions to our energy

problem! This [current] Congress has failed miser-
ably to address the real problems we the pub-
lic face and instead wasted time inves-
gigating therapies for drugs in the pipeline for
anything else [that provides easy publicity]. Many [conservatives] are also failing miser-
ably and voting for (the wrong) politics over princi-
ple. This Congress needs to get on with their jobs: earmarks come to mind here as
well as voting with the [majority] and for special interest groups that are against solv-
ing our energy problems using our own abun-
dant resources. We need to get rid of these people FAST so that somebody that really
represents us can get on with solving the problem.

As I see it, with all major potential sources of domestic oil now legally “off limits” to
exploration; with refineries effectively pre-
vented from increasing their capacities; with nuclear plants unable to expand and increase
because they are prevented from safely stor-
ing their waste; with our monstrously quan-
tities of coal, clean or otherwise, on the
verge of being banned; with heavily-subsi-
dized corn-based ethanol now a major rea-
son for the world-wide food crisis, Congress needs a

something like that?

As a result, there is now a haphazard
military operation underway to con-
train the rebels by the Congolese mili-
tary operation underway to con-
tinue efforts. Instead of mustering the tremen-
doing nothing to in-
crease domestic oil production solves the
problem either. If a college student who
struggled through Economics 101 under-
stands that the bulk of this issue is a supply
problem, what does that say about the lack of
energy policy that kept prices at the pump rea-
no one else will do it. That is why I am so concerned that one of Africa’s
Among the worst neglected humanitarian crises of our time is that of Central African Repub-
clic, the world’s most densely populated nation, which accounts for 50% of the
world’s population. The Lord’s Resistance Army—LRA—Joseph Kony, has refused to sign the agree-
ment. Far more disturbing, his rebels now operating almost entirely outside Uganda and instead in the border re-
region between Central African Republic, Uganda and Sudan have res-
sumed attacks and abducting children. They are easily exploiting the region’s
porous borders and ungoverned spaces a
problem which, in my view, con-
stitute a threat to international peace
and security. Yet rather than intensify
efforts to encourage and pressure Kony to
accept the agreement, the United States and others in the international community have downscalled our ef-
forts. Instead of mustering the tremen-
dous resources at our disposal to press
the rebels to accept a political solu-
tion, we have turned our attention
elsewhere again.

As a result, there is now a haphazard
military operation underway to con-
train the rebels by the Congolese mili-
ary a force not known for its success in
defeating armed groups or for res-
pecting civilians caught in the cross-
fire. Yes, the U.N. Peacekeeping Force in
African is known by its acronym MONUC, is supporting the Congo-
lese military, but MONUC is already
overwhelmed by its inability to fully
address its primary task: controlling the persistent violence in the eastern
region that resurfaces last sum-
mer and it is a region desperately in
need of greater security. Without ex-
panded resources and capacity focused
on this problem, a completely new offensive runs a high risk of exacerbating the region’s volatility rather than addressing it. We have seen too many times in this part of the world how rash and uncoordinated “military solutions” have fueled the flames of conflict and generated new political grievances.

This is not to say that security measures aren’t needed to protect civilians in the region and thereby bring permanent peace to eastern Congo and northern Uganda. They are. Until we are able to build the capacity of national and regional institutions, the LRA and other armed groups will continue to exploit the region’s borders and wreak havoc throughout these four countries. We need more inter-agency collaboration to consider how we can bolster sustainable long-term civilian protection mechanisms, while in the meantime devising creative short-term strategies to help fill the gaps.

The calm brought by the Juba peace process presented an unprecedented opportunity in this conflict’s history to rebuild northern Uganda’s institutions, which is the surest safeguard against future violence and instability. I fear that this opportunity is being derailed. Since the cessation of hostilities was signed two years ago, nearly half of the people displaced have returned to their original homes and begun to restore their livelihoods. However, this process has procedurally been fraught with problems. The lack of access to basic services in the villages and transit sites, such as clean water, health care and education, has broken up families and hindered recovery. The lack of a capable and competent police force and judiciary has left women and girls vulnerable to sexual violence. Finally, the lack of programs to address underlying grievances and psychosocial trauma has allowed tensions to fester.

Regarding managing northern Uganda’s transition lies first and foremost with the Government of Uganda. I realize that the government has limited capacity, but it seems there has been a distinct lack of high-level leadership. In October 2007, the Ugandan government launched a three-year $600-million recovery plan for the war-torn region, but that plan has been mired in confusion. Its partial implementation only began 2 months ago. Moreover, there has been a lack of coordination between the government, donors, U.N. agencies and non-governmental organizations. I urge the Ugandan government to show leadership at the highest levels and demonstrate its willingness to fulfill the promises it has repeatedly made to the people of northern Uganda over the last year.

If the Ugandan government leads and takes measures to prevent corruption, the international community should back it up with the necessary financial and technical support. To signal that commitment, I call on the administration to help convene a high-level conference of Uganda donors. Such a conference can coordinate an effective donor strategy to support recovery efforts and hold the Ugandan government accountable. This conference, though, must only be the beginning of reinvigorated institutional engagement by this administration and the U.S. government and is only a prelude to its conclusion, which is finally in sight after 22 years. Let us make it clear once and for all that the United States is resolved to see peace secured in northern Uganda.

Too often this Administration has leapfrogged from one crisis to another in Africa, trying to put out fires but not addressing the underlying factors driving these conflicts. This is not a result of lack of interest or dedication from our diplomats, for I have seen first-hand their resourcefulness and hard work. But the reality is that the State Department’s Africa Bureau is overwhelmed and underresourced. For places like northern Uganda or eastern Congo or Nigeria, we do not have the personnel or on-the-ground presence to respond comprehensively to insecurity. We in Congress must give greater attention in the coming months and years to ensuring our diplomatic performance is improved and that we have the capacity to operate in these neglected conflict areas. However, that process begins with us committing to these places, not just whenever they hit the headlines but because they are important to our collective security and to basic American principles.

U.S. OLYMPIANS

Mr. LEAHY. Mr. President, I rise today to honor two Vermonters who represented their country this summer in China. Everyone at one time or another has heard the Mark Twain quote, “It’s not the size of the dog in the fight, it’s the size of the fight in the dog.” Justin Wheating has done more than prove this adage to come more than the commendable determination of this year’s Vermont summer Olympians. Vermonters have always stood as an example of what a good hard day’s work can accomplish, and this summer in Beijing was no exception. In a world of more than 6.5 billion people, our great State of 610,000 created world class athletes that stand out against the crowd.

Representing Vermont on the U.S. Women’s Weightlifting Team was Carissa Gump, originally of Essex. Ever since her middle school gym teacher first convinced her to pursue weightlifting, her dedication has brought her success. One of only two U.S. women competing in her weight class, Carissa was able to finish an impressive fifth in her group and thirteenth overall. Showing off her Vermont bred toughness, she managed to complete every one of her lifts all while nursing an aggravating left wrist injury. In her online blog, anyone can also learn about her amazing and loving family. Her parents, Kathie and Marty, and her husband Jason took time away from work to fly to Beijing with Carissa and give her their support. This inspiring display of heart truly embodied Vermont’s Olympic spirit and I would like to join with her family and friends in commending Carissa’s remarkable achievements.

On the track, the Men’s 800 meters featured Norwich native Andrew Wheating. Andrew has become a regular in the national headlines ever since he finished second in the U.S. Olympic Trials and earned a ticket to represent his country in Beijing. Currently a sophomore at the University of Oregon and the only Vermonter to run a 4-minute-mile, Andrew has already established himself as one of the sport’s rising young talents. The son of Betsy and Justin Wheating, Andrew not only showcased his talent to the world, he also realized a longtime family dream. Justin Wheating as a standout athlete in his home country of England never had a chance to represent his country in an Olympic games. However, Mr. Wheating managed to pass the torch to an exceptional son who Vermont is proud to call one of our own and Andrew’s performance in these Olympic quarterfinals showed the world why.

With all of the success and accolades this young man has already accumulated, there is no doubt in my mind that he has a very bright future ahead of him.

In a place historically famous for its winter athletes, these exceptional competitors just further prove it is impossible to pigeon hole our great State. For those of you who enjoy skiing Vermont in the winter, perhaps it is time to come see why we call them the “Green Mountains” next summer? The extraordinary displays of speed and power by these Vermonters on the world’s largest stage perfectly showcased our diverse range of talent and I would like to thank Carissa and Justin for making their State and country proud.

Mr. BAYH. Mr. President, I rise today to pay tribute to the 10 outstanding Hoosier athletes who represented the State of Indiana and all of the United States in the Games of the XXIX Olympiad in Beijing, China.

Lilogy Ball, a volleyball player from Fort Wayne; David Boudia, a diver from Noblesville; Amber Campbell, a field athlete from Indianapolis; Lauren Cheney, a soccer player from Indianapolis; LeRoy Dixon, a track and field athlete from South Bend; Mary Beth Dunnichay, a diver from Elwood; Thomas Finchum, a diver from Indianapolis; David Neville, a track and field athlete from Merrillville; Samantha Peszek, a gymnast from Indianapolis; and Bridget Sloan, a gymnast from Pittsboro, all represented the Hoosier State as members of Team USA.

This Olympiad is the first for many of the Hoosier athletes; others have donned the colors of Team USA before.

This year, Lilogy Ball, a member of the
For example, I have concerns with the funding of the new State and local law enforcement grant programs in section 501 and the grant match ratio for those programs. Further, I have concerns with the creation of a new intellectual property crimes unit for the FBI to enforce intellectual property rights and the authorization of additional funding, resources and staff for the FBI to implement these additional responsibilities. I firmly believe that the FBI should focus its efforts on combating terrorism. I am concerned about duplication with work currently being performed at ICE and its National Intellectual Property Rights Coordination Center. Moreover, I am concerned with language calling for the prioritization of cases involving foreign controlled companies, and the lack of any priority for cases investigated by the FBI that have a nexus to potential terrorist activities.

My staff will be meeting with the chairman and ranking member’s staff to work on my concerns. Again, I intend to reserve my right to object to proceeding to the consideration of S. 3325 until my concerns have been addressed.

ADDITIONAL STATEMENTS

BURLINGTON COMMUNITY EDUCATION

Mr. HARKIN. Mr. President, in Iowa and across the United States, the new school year has begun. As you know, Iowa public schools have an excellent reputation nationwide, and Iowa students’ test scores are among the highest in the Nation.

I would like to take just a few minutes today, to salute the dedicated teachers, administrators, and school board members in the Burlington Community School District, and to report on their participation in a unique Federal partnership to repair and modernize school facilities.

This fall marks the 10th year of the Iowa Demonstration Construction Grant Program. That is its formal name, but it is better known among educators in Iowa as the program of Harkin grants for Iowa public schools. Since 1998, I have been fortunate to secure a total of $121 million for the State government in Iowa, which schools receive these grants for a range of renovation and repair efforts—everything from updating fire-safety systems to building new schools or renovating existing facilities. In many cases, this Federal funding is used to leverage public and/or private local funding, so it often has a tremendous multiplier effect in a local school district.

The Burlington Community School District received a 2006 Harkin grant totaling $500,000, which it used to help build three new elementary schools. Sunny-side Elementary is a modern, state-of-the-art facility that befits the educational ambitions and excellence of local public schools.

Mr. HARKIN. Mr. President, the Judiciary Committee would work on my request to be notified of any unanime...
this school district. Indeed, it is the kind of school facility that every child in America deserves.

Excellent new schools like Sunnyside do not just pop up like mushrooms after a rain. They are the product of vision, leadership, persistence, and a tremendous collaboration among local officials and concerned citizens. I salute the entire staff, administration, and government in the Burlington Community School District. In particular, I would like to recognize the superintendent—the board of education—president Thomas Greene, vice president Dennis Kuster, Gary Imthurn, Melanie Richardson, Don Harter, Linda Garwood, Scott Smith, and former board members Tom Courtney, John Sandell, Joseph Abrisz, Steven Hoth, Jason Sapsin and Joseph Poisel. I would also like to recognize superintendent Leland Morrison, former superintendent Michael Book, director of maintenance and construction manager Byron Whittelsey and principal Terri Rauhaus.

As we mark the 10th anniversary of the Harkin school grant program in Iowa, I am obliged to point out that many thousands of school buildings and facilities across the United States are in dire need of renovation or replacement. In my State of Iowa alone, according to a recent study, some 79 percent of public schools need to be upgraded or repaired. The harsh reality is that the average age of school buildings in the United States is nearly 50 years.

Too often, our children visit ultramodern shopping malls and gleaming sports arenas on weekends, but during the week go to school in rundown or antiquated facilities. This sends exactly the wrong message to our young people about our priorities. We have got to do better. That is why I am deeply grateful to the professionals and parents in the Burlington Community School District. There is no question that a quality public education for every child is a top priority in that community. I salute them, and wish them a very successful new school year.

LAMONI COMMUNITY EDUCATION

• Mr. HARKIN. Mr. President, in Iowa and across the United States, a new school year has begun. As you know, Iowa public schools have an excellent reputation nationwide, and Iowa students' test scores are among the highest in the Nation.

Too often, our children visit ultramodern shopping malls and gleaming sports arenas on weekends, but during the week go to school in rundown or antiquated facilities. This sends exactly the wrong message to our young people about our priorities. We have got to do better.

That is why I am deeply grateful to the professionals and parents in the Lamoni Community School District. That is its formal name, but it is better known among educators in Iowa as the program of Harkin grants for Iowa public schools. Since 1998, I have been fortunate to secure a total of $121 million for the State government in Iowa, which selects worthy school districts to receive these grants for a range of renovation and repair efforts—everything from updating fire-safety systems to building new schools or renovating existing facilities. In many cases, this Federal funding is used to leverage public and/or private local funding, so it often has a tremendous multiplier effect in a local school district.

Excellent new schools like Lamoni High School do not just pop up like mushrooms after a rain. They are the product of vision, leadership, persistence, and a tremendous collaboration among local officials and concerned citizens. I salute the entire staff, administration, and government in the Lamoni Community School District.

Excellent schools do not just pop up like mushrooms after a rain. They are the product of vision, leadership, persistence, and a tremendous amount of collaboration among local officials and citizens. I salute the entire staff, administration, and government in the Shenandoah Community School District.

As we mark the 10th anniversary of the Harkin school grant program in Iowa, I am obliged to point out that many thousands of school buildings and facilities across the United States are in dire need of renovation or replacement. In my State of Iowa alone, according to a recent study, some 79 percent of public schools need to be upgraded or repaired. The harsh reality is that the average age of school buildings in the United States is nearly 50 years.

Too often, our children visit ultramodern shopping malls and gleaming sports arenas on weekends, but during the week go to school in rundown or antiquated facilities. This sends exactly the wrong message to our young people about our priorities. We have got to do better.

That is why I am deeply grateful to the professionals and parents in the Lamoni Community School District. There is no question that a quality public education for every child is a top priority in that community. I salute them, and wish them a very successful new school year.

SHENANDOAH COMMUNITY EDUCATION

• Mr. HARKIN. Mr. President, in Iowa and across the United States, a new school year has begun. As you know, Iowa public schools have an excellent reputation nationwide, and Iowa students' test scores are among the highest in the Nation.

I would like to take just a few minutes, today, to salute the dedicated teachers, administrators, and school board members in the Shenandoah Community School District, and to report on their participation in a unique Federal partnership to repair and modernize school facilities.

As we mark the 10th year of the Iowa Demonstration Construction Grant Program, I would like to recognize the leadership of the board of education—president Thomas Greene, vice president Bill Morain, Mike Quick, Dennis McElroy, Michele Dickey-Kotz and Dale Killpack and former board members Mary Ann Manuel, Alan Elefson, Bob Bell and Mike Ranney. I would also like to recognize superintendent Diane Fine, former superintendent Mike Harrold, high school principal Dan Day, grant writer Shirley Kessel, project manager Dan Boswell, as well as many community members who worked hard to make this dream of a new high school come true.

As we mark the 10th anniversary of the Harkin school grant program in Iowa, I am obliged to point out that many thousands of school buildings and facilities across the United States are in dire need of renovation or replacement. In my State of Iowa alone, according to a recent study, some 79 percent of public schools need to be upgraded or repaired. The harsh reality is that the average age of school buildings in the United States is nearly 50 years.

Too often, our children visit ultramodern shopping malls and gleaming sports arenas on weekends, but during the week go to school in rundown or antiquated facilities. This sends exactly the wrong message to our young people about our priorities. We have got to do better.

That is why I am deeply grateful to the professionals and parents in the Lamoni Community School District.
are in dire need of renovation or replacement. In my State of Iowa alone, according to a recent study, some 79 percent of public schools need to be upgraded or repaired. The harsh reality is that the average age of school buildings in the United States is nearly 50 years.

Too often, our children visit ultra-modern shopping malls and gleaming sports arenas on weekends, but during the week go to school in rundown or antiquated facilities. This sends exactly the wrong message to our young people about our priorities. We have got to do better.

That is why I am deeply grateful to the professionals and parents in the Shenandoah Community School District. There is no question that a quality public education for every child is a top priority in that community. I salute them, and wish them a very successful new school year.

**SHENANDOAH COMMUNITY EDUCATION**

- Mr. HARKIN. Mr. President, in Iowa and across the United States, a new school year has begun. As you know, Iowa public schools have an excellent reputation nationwide, and Iowa students’ test scores are among the highest in the Nation.

  I would like to take just a few minutes today to salute the dedicated teachers, administrators, and school board members in the Shenandoah Community School District, and to report on their participation in a unique Federal partnership to repair and modernize school facilities.

  This fall marks the 10th year of the Iowa Demonstration Construction Grant Program. That is its formal name, but it is better known among educators in Iowa as the program of Harkin grants for Iowa public schools.

  Since 1998, I have been fortunate to secure a total of $121 million for the State government in Iowa, which selects worthy school districts to receive these grants for a range of renovation and repair efforts—everything from updating fire-safety systems to building new schools or renovating existing facilities. In many cases, this Federal funding is used to leverage public and/or private local funding, so it often has a tremendous multiplier effect in a local school district.

  The Shenandoah Community School District received a 1999 Harkin Grant totaling $230,231 which it used to help build a new K-8 school. This school is a modern, state-of-the-art facility that befits the educational ambitions and excellence of this school district. Indeed, it is the kind of school facility that every child in America deserves.

  The district also received a total of $64,189 from two fire safety grants. The federal grants have made it possible for the district to provide quality and safe schools for their students.

  Excellent schools do not just pop up like mushrooms after a rain. They are the product of vision, leadership, persistence, and a tremendous amount of collaboration among local officials and concerned citizens. I salute the entire staff, administration and governance in the Shenandoah Community School District. In particular, I would like to recognize superintendent Richard Prof- it as well as former board members—Roger Jones and Steve Berning and former superintendent Connie Maxson.

  As we mark the 10th anniversary of the Harkin school grant program in Iowa, I am obliged to point out that many thousands of school buildings and facilities across the United States are in dire need of renovation or replacement. In my State of Iowa alone, according to a recent study, some 79 percent of public schools need to be upgraded or repaired. The harsh reality is that every child in America deserves.

  Too often, our children visit ultra-modern shopping malls and gleaming sports arenas on weekends, but during the week go to school in rundown or antiquated facilities. This sends exactly the wrong message to our young people about our priorities. We have got to do better.

  That is why I am deeply grateful to the professionals and parents in the Shenandoah Community School District. There is no question that a quality public education for every child is a top priority in that community. I salute them, and wish them a very successful new school year.

**SOUTH PAGE COMMUNITY EDUCATION**

- Mr. HARKIN. Mr. President, in Iowa and across the United States, a new school year has begun. As you know, Iowa public schools have an excellent reputation nationwide, and Iowa students’ test scores are among the highest in the Nation.

  I would like to take just a few minutes today, to salute the dedicated teachers, administrators, and school board members in the South Page Community School District, and to report on their participation in a unique Federal partnership to repair and modernize school facilities.

  This fall marks the 10th year of the Iowa Demonstration Construction Grant Program. That is its formal name, but it is better known among educators in Iowa as the program of Harkin grants for Iowa public schools.

  Since 1998, I have been fortunate to secure a total of $121 million for the State government in Iowa, which selects worthy school districts to receive these grants for a range of renovation and repair efforts—everything from updating fire-safety systems to building new schools or renovating existing facilities. In many cases, this Federal funding is used to leverage public and/or private local funding, so it often has a tremendous multiplier effect in a local school district.

  The South Page Community School District received a 2002 Harkin grant totaling $298,650 which was used to help make improvements on the K-12 building. The district also received a $50,000 fire safety grant that was used to replace and repair exit lighting and smoke detectors. The Federal grants also provided the district with the extra funding to provide quality and safe schools for their students.

  Excellent schools do not just pop up like mushrooms after a rain. They are the product of vision, leadership, persistence, and a tremendous amount of collaboration among local officials and concerned citizens. I salute the entire staff, administration, and governance in the South Page Community School District. In particular, I would like to recognize the leadership of the board of education—president Ellen Nothwehr, Junior Niehart, Ron Peterman, Deb Wallin and Karl Kenagy as well as former board members—Terry Carlson, Larry Murphy and Brenda Swanson. I would also like to recognize superintendent Joy Jones and former superintendent Iner Joelson.

  As we mark the 10th anniversary of the Harkin school grant program in Iowa, I am obliged to point out that many thousands of school buildings and facilities across the United States are in dire need of renovation or replacement. In my State of Iowa alone, according to a recent study, some 79 percent of public schools need to be upgraded or repaired. The harsh reality is that the average age of school buildings in the United States is nearly 50 years.

  Too often, our children visit ultra-modern shopping malls and gleaming sports arenas on weekends, but during the week go to school in rundown or antiquated facilities. This sends exactly the wrong message to our young people about our priorities. We have got to do better.

  That is why I am deeply grateful to the professionals and parents in the South Page Community School District. There is no question that a quality public education for every child is a top priority in that community. I salute them, and wish them a very successful new school year.

**HONORING TAMMY CHASE**

- Mr. JOHNSON. Mr. President, I wish to pay tribute to Sisseton resident Tammy Chase and her dedicated service to the South Dakota National Guard. Serving as the family readiness group leader, Tammy provides support to units, servicemembers, and families throughout South Dakota. When a soldier is overseas, his or her family and friends must assume additional responsibilities and sacrifices. Thanks to the work of Tammy, and the family...
readiness group, South Dakota National Guard families are provided with an extended network of support and resources to help them through their time apart. Among her many tasks, Tammy maintains the telephone tree, publishes newsletters, provides baked goods to soldiers at monthly drills, organizes family events, and prepares families for possible deployments. Countless lives have been touched by her efforts.

Tammy is dedicated and committed to her volunteer work; she has been the family readiness group leader for the past 11 years. She was recently recognized for her efforts when she was presented with the AMVETS PNC John S. Lorec National Guard Volunteer of the Year award at the National Guard Family Program conference in St. Louis, MO.

I am pleased that Tammy’s efforts are being publicly honored and celebrated. I applaud her for her years of hard work. Tammy’s work in our communities and State is a testament to her selfless service to our country. Tammy’s efforts on behalf of all those that are currently serving in the National Guard are a shining example of patriotism, and we can all be inspired by her dedication and service.

125TH ANNIVERSARY OF THE FOUNDING OF UNIVERSITY OF SIOUX FALLS

Mr. JOHNSON. Mr. President, today I wish to recognize the 125th anniversary of the founding of University of Sioux Falls. Over the course of its history, USF has continuously produced extraordinary graduates with a Christian liberal arts education. In the modern, high-tech, and competitive environment in which we live, USF students are equipped with the skills that are essential for future success.

In education, technology, and research, USF is at the forefront of academic and cultural achievement, with enrollment now at 1,700 and a diverse student body from over 20 States. For 125 years, the university has helped students realize their potential by offering them a quality education and a positive social and religious environment. USF graduates are well-equipped to succeed in a competitive world, delivering countless benefits to organizations and communities close to home and around the globe.

I am proud to have this opportunity to honor the University of Sioux Falls for its 125 years of outstanding service. I strongly commend their hard work and dedication, and I am very pleased that their substantial efforts are being publicly honored and celebrated.

TRIBUTE TO RICK AND KATHY CLARKE

Mr. INHOFE. Mr. President, I rise to honor two great Oklahomans, Rick and Kathy Clarke, who are in Washington, DC, for the Congressional Coalition on Adoption Institute’s annual Angels in Adoption Gala. I was pleased to select Rick and Kathy as 2008 Angels in Adoption because of their great commitment to adoption at both a personal and professional level.

When Rick was serving for 5 years as a judge in juvenile court, working with abused and neglected children every day, both he and his wife, Kathy, formed a desire to help children who are most in need—those without family and support. Today, they are part of law practice and are a shining example of patriotic citizenship and service.

I wish to recognize the 125th anniversary of the University of Sioux Falls. Over the course of its history, USF graduates are well-equipped for the challenges of adulthood, whether through his efforts with the First Jobs program, which provides initial and transitional employment opportunities at Hannaford for youth aged 15–21, or Casey’s outdoor work-readiness and skill development program.

And for that I congratulate and honor them.

TRIBUTE TO MARK MILLAR

Ms. SNOWE. Mr. President, I congratulate Mark Millar on receiving the 2008 Angels in Adoption Award, a tremendous honor that highlights his tireless commitment to achieving permanent family connections for children in foster care in Maine. A well-deserved accolade for such an ennobling endeavor.

Mark Millar began his career as a protective services worker and has been a critical part of Casey Family Services in Portland for more than 20 years. In that time, he and his dedicated staff have helped transform the lives of countless families, by promoting kinship care, providing counseling and other services to strengthen families postadoption, and helping Maine reduce the amount of time required to reach legal permanence when a child enters foster care.

Undoubtedly, we as a nation can and must do more to better equip families who sacrifice so much to provide safe, loving homes for children in foster care. For many families, the decision to open their home to a child is easy, but it can also be emotionally trying and financially taxing. That’s why Mark Millar’s work at Casey Family Services is so indispensable and profoundly worthy of this distinction. At a time when Federal dollars for child welfare services are regrettably too few, Mark Millar and Casey Family Services offer families a support system that is dependable and viable.

Mark Millar has also performed remarkable work in helping teens prepare for the challenges of adulthood, whether though his efforts with the First Jobs program, which provides initial and transitional employment opportunities for youth aged 15–21, or Casey’s outdoor work-readiness and skill development program. And he has been selfless in his extraordinary contributions and inspiring through the power of his personal example. In short, he understands and lives out what American novelist, Herman Melville, once eloquently described in words . . . “We
cannot live for ourselves alone. Our lives are connected by a thousand invisible threads, and along these sympathetic fibers, our actions run as causes and return to us as results.”

Championing the cause of children and garnering tangible results that effect the everyday lives of many Mainers, no one more exemplifies the measure of Mark’s phenomenal trajectory of accomplishment in helping others. And so, we couldn’t be more grateful to Mark for what has given and continues to give back to Maine, and I couldn’t be more pleased to introduce this tribute bestowed upon him which is a fitting recognition of all he has achieved on behalf of all whom he has served.

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**TRIBUTE TO JACK VAN DER GEEST**

Mr. THUNE, Mr. President, today I recognize the 85th birthday of Jack van der Geest of Rapid City, SD. A native of the Netherlands and author of “Was God on Vacation?”, Jack’s life story is a heroic depiction of courage and the willingness to act against the evils that threaten our world and our freedoms.

Born in the Netherlands in 1923, Jack’s younger years witnessed the horrifying and devastating effect of Nazi Germany in Europe. Jack endured many trials and tribulations after the Nazis invaded his homeland in 1940; however, none of them would prove to break Jack’s spirit of perseverance. After his capture, Jack’s resilience served him well as he became one of only eight prisoners to escape from the Buchenwald concentration camp.

Following Jack’s escape from terror in the Netherlands, he further pledged his services to fight the Nazi occupation throughout Europe. Jack joined the French Underground and helped Allied paratroopers escape capture in Vichy, France. Soon after, Jack joined the 101st Airborne where he became an interpreter for the storied 101st Airborne. Jack eventually immigrated to America and became a United States citizen in 1953.

In 1995, Jack authored the book “Was God on Vacation?”, an autobiography of his life during World War II. This astonishing work gives an in-depth account of Jack’s struggles and endeavors from 1940–1947. Jack’s testimony truly shines a light on the persecution and challenges many Europeans endured during World War II and how some fought dearly to repel the Nazi aggressors. The story of Jack van der Geest reminds us to never take for granted the freedoms that so many have fought for in our armed services and around the world.

I would like to send my heartfelt congratulations to Jack on his 85th birthday and thank him for telling his story and allowing us all to never forget how fortunate we are to be free.

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**RECOGNIZING ARMOURED ELEMENTARY SCHOOL**

Mr. THUNE, Mr. President, today I recognize Armour Elementary School for being named a 2008 No Child Left Behind-Blue Ribbon School. The commitment to quality education that has shown by the faculty, teachers and students at Armour Elementary School is truly invaluable in shaping the future leaders of this country. The work that they are doing to meet higher achievement standards and greater accountability serves as a model to other schools throughout our State and Nation.

Again, congratulations to Armour Elementary School for being named a blue ribbon school and for making South Dakota proud.

**RECOGNIZING WHITWOOD ELEMENTARY SCHOOL**

Mr. THUNE, Mr. President, today I recognize Whitewood Elementary School for being named a 2008 No Child Left Behind-Blue Ribbon School. The commitment to quality education that has shown by the faculty, teachers and students at Whitewood Elementary School is truly invaluable in shaping the future leaders of this country. The work that they are doing to meet higher achievement standards and greater accountability serves as a model to other schools throughout our State and Nation.

Again, congratulations to Whitewood Elementary School for being named a blue ribbon school and for making South Dakota proud.

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**MESSAGES FROM THE PRESIDENT**

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

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**EXECUTIVE MESSAGES REFERRED**

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

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

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**MESSAGES FROM THE HOUSE**

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**ENROLLED BILLS SIGNED**

At 11:05 a.m., a message from the House of Representatives, delivered by Ms. Brandon, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

- S. 2403. An act to designate the United States courthouse located in the 700 block of East Broad Street, Richmond, Virginia, as the “Spottswood W. Robinson III and Robert R. Merhige, Jr., United States Courthouse”.

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**S. 2617. An act to amend title 38, United States Code, to codify increases in the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans that were effective as of December 1, 2007, to provide for an increase in the rates of such compensation effective December 1, 2008, and for other purposes.**

The enrolled bills were subsequently signed by the President pro tempore (Mr. Byrd).

At 6:18 p.m., a message from the House of Representatives, delivered by Mrs. Cole, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

- H.R. 5167. An act to terminate the authority of the President to waive, with regard to Iraq, certain provisions under the National Defense Authorization Act for Fiscal Year 2008 unless certain conditions are met.

**EXECUTIVE MESSAGES REFERRED**

An act to extend the authority of the Secretary of Education to purchase guarantees of student loans for an additional year, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:


**MESURES REFERRED**

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

- H.R. 5167. An act to amend the National Defense Authorization Act for Fiscal Year 2008 to remove the authority of the President to waive certain provisions; to the Committee on Armed Services.

The following concurrent resolution was read, and referred as indicated:

- H. Con. Res. 390. Concurrent resolution honoring the 28th Infantry Division for serving and protecting the United States; to the Committee on Armed Services.

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**ENROLLED BILLS PRESENTED**

The Secretary of the Senate reported that on September 16, 2008, she had presented to the President of the United States the following enrolled bills:

- S. 2403. An act to designate the United States courthouse located in the 700 block of East Broad Street, Richmond, Virginia, as the “Spottswood W. Robinson III and Robert R. Merhige, Jr., United States Courthouse”.

- S. 2617. An act to amend title 38, United States Code, to codify increases in the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans that were effective as of December 1, 2007, to provide for an increase in the rates of such compensation effective December 1, 2008, and for other purposes.
amendment:

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

H.R. 838. A bill to provide for the conveyance of the Bureau of Land Management parcels known as the White Acre and Gambel Oak properties and related real property to Park City, Utah, and for other purposes.

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

H.R. 903. A bill to authorize the Secretary of the Interior to participate in the design, planning, and construction of permanent facilities for the Garrison, re-use, and treated impaired waters in the area of Oxnard, California.

H.R. 1803. A bill to direct the Secretary of the Interior to conduct a feasibility study to design and construct a four reservoir intertie system for the purpose of improving the water storage opportunities, water supply reliability, and water quality in the Josie Water, and for other purposes.

H.R. 2246. A bill to provide for the release of any reversionary interest of the United States in and to certain lands in Nevada.

H.R. 2632. A bill to establish the Sabinoso Wilderness Area in San Miguel County, New Mexico, and for other purposes.

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

H.R. 2332. A bill to authorize the Secretary of the Interior to participate in certain water projects in California.

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

H.R. 2322. A bill to authorize the Secretary of the Interior to convey a water distribution system to the Goleta Water District, and for other purposes.

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

H.R. 3473. A bill to provide for a land exchange with the City of Bountiful, Utah, involving National Forest System land in the Wasatch-Cache National Forest and to further land ownership consolidation in that national forest, and for other purposes.

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with amendments:

H.R. 3490. A bill to transfer administrative jurisdiction of certain Federal lands from the Bureau of Land Management to the Bureau of Indian Affairs, to take such lands into trust for Tuolumne Band of Me-Wuk Indians of the Tuolumne Rancheria, and for other purposes.

H.R. 3682. A bill to designate certain federal lands in Riverside County, California, as a unit to be known as the Palm Springs National Monument, and for other purposes.

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, without amendment:

H.R. 5137. A bill to ensure that hunting remains a purpose of the New River Gorge National River.

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 390. A bill to direct the exchange of certain land in Grand, San Juan, and Uintah Counties, Utah, and for other purposes.

S. 1576. A bill to authorize the Secretary of the Interior to carry out the Jackson Gulch rehabilitation project in the State of Colorado.

S. 1680. A bill to provide for the inclusion of certain non-Federal land in the Izembek National Wildlife Refuge and the Aleaska Peninsula National Wildlife Refuge in the State of Alaska, and for other purposes.

S. 1756. A bill to provide supplemental emergency special education and related services to children with special needs, and for other purposes.

S. 2156. A bill to authorize the Secretary of the Interior to establish a commemorative national park system in connection with the Women’s Rights National Historical Park to link properties that are historically and thematically associated with the struggle for women’s suffrage, and for other purposes.

S. 2254. A bill to authorize the Secretary of the Interior to construct facilities to provide water for irrigation, municipal, domestic, and tribal uses from the Santa Margarita River, California, and for other purposes.

S. 2354. A bill to direct the Secretary of the Interior to convey 4 parcels of land from the Bureau of Land Management to the city of Twin Falls, Idaho.

S. 2359. A bill to establish the St. Augustine 450th Commemoration Commission, and for other purposes.

S. 2488. A bill to authorize the Secretary of the Interior to convey 4 parcels of land from the Bureau of Land Management to the city of Martin Van Buren National Historic Site, and for other purposes.
By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, without amendment:
S. 2561. A bill to require the Secretary of the Interior to conduct a theme study to identify sites and resources to commemorate and interpret the Cold War.
S. 2779. A bill to amend the Surface Mining Control and Reclamation Act of 1977 to authorize appropriations for the Secretary of the Interior to carry out stream cleanup projects.
S. 2943. A bill to amend the National Trails System Act to designate the Pacific Northwest National Scenic Trail.
S. 2973. A bill to authorize the Secretary of Energy and Natural Resources, with an amendment in the nature of a substitute:
S. 2974. A bill to provide for the construction of the Arkansas Valley Conduit in the State of Colorado.
S. 2983. A bill to reauthorize the Route 66 Corridor Preservation Program.
S. 3001. A bill to amend the Palo Alto Battlefield National Historic Site Act of 1991 to expand the boundaries of the historic site, and for other purposes.
S. 3051. A bill to establish the Kenai Mountains-Turnagain Arm National Forest Heritage Area in the State of Alaska, and for other purposes.
S. 3069. A bill to designate certain land as wilderness in the State of California, and for other purposes.
S. 3083. A bill to require the Secretary of the Interior to establish a cooperative water-shed management program, and for other purposes.
S. 3088. A bill to designate certain land in the State of Oregon as wilderness, and for other purposes.
S. 3089. A bill to designate certain land in the State of Oregon as wilderness, to provide for the exchange of certain Federal land and non-Federal land, and for other purposes.
S. 3096. A bill to amend the National Cave and Karst Research Institute Act of 1998 to authorize appropriations for the National Cave and Karst Research Institute.
S. 3098. A bill to extend the authority for the Cape Cod National Seashore Advisory Commission.
S. 3179. A bill to authorize the conveyance of certain public land in the State of New Mexico owned or leased by the Department of Energy, and for other purposes.
S. 3182. A bill to amend Public Law 106-392 to require the Administrator of the Western Area Power Administration to provide for a Program of Reclamation to maintain sufficient revenues in the Upper Colorado River Basin Fund, and for other purposes.
S. 3236. A bill to rename the Abraham Lincoln Birthplace National Historic Site in the State of Kentucky as the "Abraham Lincoln Birthplace National Historical Park".
S. 3499. A bill to authorize the Secretary of Energy and Natural Resources, with an amendment:
S. 3496. A bill to authorize the Secretary of Energy and Natural Resources, with an amendment:
S. 3497. A bill to authorize the Secretary of Energy and Natural Resources, with an amendment:
S. 3498. A bill to authorize the Secretary of Energy and Natural Resources, with an amendment:
S. 3499. A bill to authorize the conveyance of certain public land in the State of New Mexico owned or leased by the Department of Energy, and for other purposes.
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EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committee were submitted on September 16, 2008:

By Mr. BIDEN, from the Committee on Foreign Relations:
[Treaty Doc. 110-1, Amendment to Convention on Physical Protection of Nuclear Material with 1 reservation, 3 understandings, and 1 declaration (Ex. Rept. 110-24);]
[Treaty Doc. 110-8, Protocols of 2005 to the Convention concerning Safety of Maritime Navigation and to the Protocol concerning Safety of Fixed Platforms on the Continental Shelf with reservations, understandings, and declarations (Ex. Rept. 110-25) and]
[Treaty Doc. 110-1A, the Hague Convention with 4 understandings and 1 declaration (Ex. Rept. 110-26).]

The text of the committee-recommended resolutions of advice and consent to ratification are as follows:

110-6: AMENDMENT TO CONVENTION ON PHYSICAL PROTECTION OF NUCLEAR MATERIAL
Resolved (two-thirds of the Senators present concurring therein),
Section 1. Senate Advice and Consent subject to a reservation, understandings, and a declaration.
The Senate advises and consents to the ratification of the Amendment to the Convention on the Physical Protection of Nuclear Material, adopted on July 8, 2008 (the "Amendment") (Treaty Doc. 110-6), subject to the reservation of section 2, the understanding of section 3, and the declaration of section 4.

Section 2. Reservation. The advice and consent of the Senate under section 1 is subject to the following reservation, which shall be included in the instrument of ratification:
Consistent with Article 17(3) of the Convention on the Physical Protection of Nuclear Material, the United States of America declares that it does not consider itself bound by Article 17(2) of the Convention on the Physical Protection of Nuclear Material, which relates to the interpretation or application of the Amendment.

Section 3. Understandings. The advice and consent of the Senate under section 1 is subject to the following understandings, which shall be included in the instrument of ratification:
(1) The United States of America understands that the term "armed conflict" in Paragraph 5 of the Amendment (Article 2 of the Convention on the Physical Protection of Nuclear Material, as amended) does not include internal disturbances and tensions, such as riots, isolated and sporadic acts of violence, and other acts of a similar nature.

(2) The United States of America understands that the term "international humanitarian law" in Paragraph 5 of the Amendment (Article 2 of the Convention on the Physical Protection of Nuclear Material, as amended) has the same substantive meaning as the law of war.

(3) The United States of America understands that, pursuant to Paragraph 5 of the Amendment (Article 2 of the Convention on the Physical Protection of Nuclear Material, as amended), the Convention on the Physical Protection of Nuclear Material, as amended, will not apply to: (a) the military forces of a State, which are the armed forces of a State organized, trained, and equipped under its internal law for the primary purpose of national defense or security, in the exercise of their official duties; or (b) civilians who direct or organize the official activities of military forces of a State; or (c) civilians acting in support of the official activities of the military forces of a State, if the civilians are under the formal control, or responsibility of those forces.

Section 4. Declaration. The advice and consent of the Senate under section 1 is subject to the following declaration:
With the exception of the provisions that obligate the United States to criminalize certain of enses, make those offenses punishable by appropriate penalties, and authorize the assertion of jurisdiction over such offenses, this Amendment is self-executing. Included among the self-executing provisions are the provisions concerning the United States to treat certain offenses as extraditable offenses for purposes of bilateral extraterritorial treaties. This Amendment does not confer private rights enforceable in United States courts.

110-8: PROTOCOLS OF 2005 TO THE CONVENTION CONCERNING SAFETY OF MARITIME NAVIGATION AND TO THE PROTOCOL CONCERNING SAFETY OF FIXED PLATFORMS ON THE CONTINENTAL SHELF
Resolved (two-thirds of the Senators present concurring therein),
Section 1. Senate Advice and Consent subject to a reservation, understandings, and a declaration.
The Senate advises and consents to the ratification of the Protocols for the Suppression of Unlawful Acts against the Safety of Fixed Platforms
Located on the Continental Shelf, adopted on October 14, 2005, and signed on behalf of the United States of America on February 17, 2006 (the “2005 Fixed Platforms Protocol”), subject to the reservation of section 2, the understandings of section 3, and the declaration of section 4.

Section 2. Reservation. The advice and consent of the Senate under section 1 is subject to the following reservation, which shall be included in the instrument of ratification:


Section 3. Understandings. The advice and consent of the Senate under section 1 is subject to the following understandings, which shall be included in the instrument of ratification:

(1) The United States of America understands that the term “armed conflict” as used in paragraph 2 of Article 2bis of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 2005, and incorporated by Article 2 of the 2005 Fixed Platforms Protocol, does not include internal disturbances and tensions, such as riots, isolated and sporadic acts of violence, and other acts of a similar nature.

(2) The United States of America understands that the term “international humanitarian law” as used in paragraph 4 of Article 2bis of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 2005, and incorporated by Article 2 of the 2005 Fixed Platforms Protocol, has the same substantive meaning as the “law of war.”


Section 4. Declaration. The advice and consent of the Senate under section 1 is subject to the following declaration:

With the exception of the provisions that obligate the United States to criminalize certain offenses, make those offenses punishable by appropriate penalties, and authorize the assertion of jurisdiction over such offenses, the 2005 Fixed Platforms Protocol is self-executing. Included among the self-executing provisions are those governing the United States to treat certain offenses as extraditable offenses for purposes of bilateral extradition treaties. None of the provisions of the 2005 Fixed Platforms Protocol, including those incorporating by reference Articles 7 and 10 of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 2005, contain or require the exercise of any right of the United States to enforce criminal penalties in United States courts.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. STEVENS (for himself, Mr. BURNOV, and Ms. OAKLEY):

S. 3491. A bill to amend the Communications Act of 1934 to improve the effectiveness of rural health care support under section 254 of that Act; to the Committee on Commerce, Science, and Transportation.

By Ms. LINCOLN (for herself, Mr. ROCKEFELLER, Ms. COLLINS, Ms. LANDRETH, Mr. BACH, Mr. CASHEY, and Mr. JOHNSON):

S. 3492. A bill to amend part E of title IV of the Social Security Act to ensure States follow best policies and practices for supporting and retaining foster parents and to require the Secretary of Health and Human Services to award grants to States to improve the empowerment, leave those support, training, recruitment, and retention of foster care, kinship care, and adoptive parents; to the Committee on Finance.

By Mrs. PEANUT (for herself and Mr. BOXER):

S. 3493. A bill to require rail carriers to develop positive train control system plans for improving railroad safety and to increase the civil penalties for railroad safety violations; to the Committee on Commerce, Science, and Transportation.

By Mrs. BOXER (for herself, Mrs. CLINTON, Mr. CARDIN, and Mr. WITK
dom):

S. 3495. A bill to protect pregnant women and children from dangerous lead exposures; to the Committee on Environment and Public Works.

By Mrs. BOXER (for herself, Mrs. CLINTON, Mr. CARDIN, and Mr. WITK
dom):

S. 3495. A bill to protect pregnant women and children from dangerous lead exposures; to the Committee on Environment and Public Works.

By Mrs. BOXER:

S. 3496. A bill to address the health and economic development impact of nonattainment air quality standards in the San Joaquin Valley, California, by designating air quality empowerment zones; to the Committee on Environment and Public Works.

By Ms. CLINTON:

S. 3497. A bill to amend the Food and Nutrition Act of 2008 to decrease the period of benefit ineligibility of certain adults due to unemployment; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. VOINOVICH (for himself, Mr. BROWN, Mr. COCHRAN, Mr. VITTER, Mr. OBAMA, Mr. BATH, and Mr. LUGAR):

S. 3498. A bill to amend title 46, United States Code, to extend the exemption from the fire-retardant materials construction requirement for vessels operating within the Boundary Line; to the Committee on Commerce, Science, and Transportation.

By Mr. BINGAMAN:

S. 3499. An original bill to protect innocent Americans from violent crime in national parks; from the Committee on Natural Resources; placed on the calendar.

By Mr. LAUTENBERG (for himself, Mrs. BOXER, Mr. VITTER, and Mr. BROW:}

S. 3500. A bill to amend the Federal Water Pollution Control Act and the Safe Drinking
Water Act to improve water and wastewater infrastructure in the United States; to the Committee on Environment and Public Works.

By Mr. FEINGOLD (for himself and Mrs. FEINSTEIN):
S. 3501. A bill to ensure that Congress is notified when the Department of Justice determines that the Executive Branch is not bound by a statute; to the Committee on the Judiciary.

By Mrs. CLINTON:
S. 3698. A bill to provide for the establishment of a task force to address the environmental health and safety risks posed to children, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. BIDEN (for himself, Mrs. CLINTON, Mr. KERRY, Ms. MIKULSKI, and Ms. STABENOW):
S. Res. 682. A resolution raising the awareness of the need for crime prevention in communities across the country and designating the week of October 2, 2008, through October 4, 2008, as "Celebrate Safe Communities Week"; to the Committee on the Judiciary.

By Mr. HAGEL:
S. Con. Res. 99. A concurrent resolution honoring the University of Nebraska at Omaha for its 100 years of commitment to higher education; to the Committee on Health, Education, Labor, and Pensions.

ADDITIONAL COSPONSORS

S. 211
At the request of Mrs. CLINTON, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 211, a bill to facilitate nationwide availability of 2-1-1 telephone service for information and referral on human services, volunteer services, and for other purposes.

S. 625
At the request of Mr. REID, the name of the Senator from Missouri (Mrs. MCCASKILL) was added as a cosponsor of S. 625, a bill to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products.

S. 329
At the request of Mr. MENENDEZ, the names of the Senator from Wyoming (Mr. ENZI) and the Senator from Washington (Ms. CANTWELL) were added as cosponsors of S. 826, a bill to posthumously award a Congressional gold medal to Alice Paul, in recognition of her role in the women's suffrage movement and in advancing equal rights for women.

S. 1232
At the request of Mr. DODD, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 1232, a bill to direct the Secretary of Health and Human Services, in consultation with the Secretary of Education, to develop a voluntary policy for managing the risk of food allergy and anaphylaxis in schools, to establish school-based food allergy management grants, and for other purposes.

S. 1243
At the request of Mr. KERRY, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 1243, a bill to amend title 10, United States Code, to reduce the age for receipt of military retired pay for non-regular service from 60 years of age to 55 years of age.

S. 1238
At the request of Mr. LEAHY, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 1238, a bill to amend the Immigration and Nationality Act to eliminate discrimination in the immigration laws by permitting permanent partners of United States citizens and lawful permanent residents to obtain lawful permanent resident status in the same manner as spouses of citizens and lawful permanent residents and to penalize immigration fraud in connection with permanent partnerships.

S. 1376
At the request of Mr. BINGAMAN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1376, a bill to amend the Public Health Service Act to revise and expand the drug discount program under section 340B of such Act to improve the provision of discounts on drug purchases for certain safety net providers.

S. 1514
At the request of Mr. DODD, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 1514, a bill to revise and extend provisions under the Garrett Lee Smith Memorial Act.

S. 1556
At the request of Mr. SMITH, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1556, a bill to amend the Internal Revenue Code of 1986 to extend the name for Employer-Sponsored Health Coverage for Employers of Retirees for Federal Employees.

S. 1627
At the request of Mrs. LINCOLN, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 1627, a bill to amend the Internal Revenue Code of 1986 to extend and expand the benefits for businesses operating in empowerment zones, enterprise communities, or renewal communities, and for other purposes.

S. 1788
At the request of Mr. BIDEN, the names of the Senator from Michigan (Ms. STABENOW), the Senator from Wisconsin (Mr. KOHL), the Senator from Delaware (Mr. CARPER), the Senator from Nebraska (Mr. HAGEL) and the Senator from Rhode Island (Mr. REED) were added as cosponsors of S. 1788, a bill to establish a Special Counsel for Child Exploitation Prevention and Interdiction within the Office of the Deputy Attorney General, to improve the Internet Crimes Against Children Task Force, to increase resources for regional computer forensic labs, and to make other improvements to increase the ability of law enforcement agencies to investigate and prosecute predators.

At the request of Mr. INOUYE, the names of the Senator from Rhode Island (Mr. WHITEHOUSE), the Senator from West Virginia (Mr. ROCKEFELLER) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of S. 2668, a bill to amend title 38, United States Code, to provide for an assured adequate level of funding for veterans health care.

S. 2970
At the request of Mr. ENZI, the name of the Senator from Wyoming (Mr. MENENDEZ) was added as a cosponsor of S. 2970, a bill to enhance the ability of drinking water utilities in the United States to develop and implement climate change adaptation programs and policies, and for other purposes.

At the request of Mr. GRASSLEY, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 3038, a bill to amend part E of title IV of the Social Security Act to extend the adoption incentives program, to authorize States to establish a relative guardianship program, to promote the adoption of children with special needs, and for other purposes.

At the request of Mr. WEBB, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 3149, a bill to provide that if any of the 12 weeks of parental leave made available to a Federal employee shall be paid leave, and for other purposes.
At the request of Mr. Casey, the names of the Senator from Arkansas (Mrs. Lincoln) was added as a cosponsor of S. 3237, a bill to assist volunteer fire companies in coping with the precipitous rise in fuel prices.

S. 3266
At the request of Mr. Warner, the name of the Senator from Alabama (Mr. Sessions) was added as a cosponsor of S. 3266, a bill to require Congress and Federal departments and agencies to reduce the annual consumption of gasoline of the Federal Government.

S. 3277
At the request of Mr. Menendez, the name of the Senator from Maine (Ms. Snowe) was added as a cosponsor of S. 3277, a bill to amend title 31 of the United States Code to require that Federal children’s programs be separately displayed and analyzed in the President’s budget.

S. 3311
At the request of Mr. Duren, the name of the Senator from North Dakota (Mr. Dorgan) was added as a cosponsor of S. 3311, a bill to amend the Public Health Service Act to improve mental and behavioral health services on college campuses.

S. 3344
At the request of Mr. Coburn, the name of the Senator from Arizona (Mr. Kyl) was added as a cosponsor of S. 3344, a bill to defend against child exploitation and child pornography through improved Internet Crimes Against Children task forces and enhanced tools to block illegal images, and to eliminate the unwarranted release of convicted sex offenders.

S. 3356
At the request of Mr. Isakson, the names of the Senator from Arizona (Mr. Kyl), the Senator from Kentucky (Mr. Mitchell), the Senator from Oregon (Mr. Smith), the Senator from Wyoming (Mr. Enzi), the Senator from Indiana (Mr. Lugar), the Senator from Idaho (Mr. Craig), the Senator from Alaska (Mr. Stevens), the Senator from Utah (Mr. Hatch), the Senator from Oklahoma (Mr. Inhofe), the Senator from Oklahoma (Mr. Coburn), the Senator from North Carolina (Mr. Burr), the Senator from Alabama (Mr. Shelby), the Senator from North Carolina (Mr. McCauley), the Senator from Ohio (Mr. Voinovich), the Senator from Kentucky (Mr. McConnell), the Senator from Maine (Ms. Collins), the Senator from Alaska (Ms. Murkowski), the Senator from South Carolina (Mr. DeMint), the Senator from South Dakota (Mr. Thune), the Senator from Wyoming (Mr. Barrasso), the Senator from Maine (Ms. Snowe), the Senator from Pennsylvania (Mr. Specter), the Senator from Colorado (Mr. Allard), the Senator from New Hampshire (Mr. Gregg), the Senator from Kansas (Mr. Roberts), the Senator from New Hampshire (Mr. Sununu), the Senator from Virginia (Mr. Warner), the Senator from Mississippi (Mr. Wicker), the Senator from Colorado (Mr. Salazar), the Senator from Minnesota (Ms. Klobuchar), the Senator from Hawaii (Mr. Inouye), the Senator from Hawaii (Mr. Akaka), the Senator from Nebraska (Mr. Nelson) and the Senator from Montana (Mr. Thune) were added as cosponsors of S. 3356, a bill to require the Secretary of the Treasury to mint coins in commemoration of the legacy of the United States Army Infantry and the establishment of the National Infantry Museum and Soldier Center.

S. 3389
At the request of Mr. Schumer, the names of the Senator from Vermont (Mr. Leahy) and the Senator from Connecticut (Mr. Lieberman) were added as cosponsors of S. 3389, a bill to require, for the benefit of shareholders, the disclosure of payments to foreign governments for the extraction of natural resources, to allow such shareholders more appropriately to determine associated risks.

S. 3428
At the request of Mr. Schumer, the names of the Senator from Montana (Mr. Tester), the Senator from Washington (Mrs. Murray) and the Senator from Delaware (Mr. Biden) were added as cosponsors of S. 3428, a bill to amend the Internal Revenue Code to provide for an increased mileage rate for charitable deductions.

S. 3430
At the request of Mr. Bunning, the name of the Senator from Louisiana (Mr. Vitter) was added as a cosponsor of S. 3430, a bill to prohibit golden parachute payments for former executives and directors of Fannie Mae and Freddie Mac.

S. 3474
At the request of Mr. Carper, the names of the Senator from Maine (Ms. Collins) and the Senator from Minnesota (Mr. Coleman) were added as cosponsors of S. 3474, a bill to amend title 44, United States Code, to enhance information security of the Federal Government, and for other purposes.

S. 3496
At the request of Mr. Chambliss, the name of the Senator from Iowa (Mr. Harkin) was added as a cosponsor of amendment No. 5327 intended to be proposed to S. 3001, an original bill to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 5445
At the request of Mr. Bayh, the name of the Senator from Ohio (Mr. Brown) was added as a cosponsor of amendment No. 5445 intended to be proposed to S. 3001, an original bill to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 5493
At the request of Ms. Mikulski, her name and the name of the Senator from Maryland (Mr. Cardin) were added as cosponsors of amendment No. 5493 intended to be proposed to S. 3001, an original bill to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 5499
At the request of Mr. Webb, the names of the Senator from Maryland (Mr. Cardin), the Senator from Nebraska (Mr. Hagel) and the Senator from Rhode Island (Mr. Reed) were added as cosponsors of amendment No. 5499 intended to be proposed to S. 3001, an original bill to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 5509
At the request of Mr. Bayh, the names of the Senator from Nebraska (Mr. Nelson), the Senator from Rhode Island (Mr. Whitehouse), the Senator from North Carolina (Mrs. Dole), the Senator from Delaware (Mr. Biden), the Senator from Michigan (Ms. Stabenow), the Senator from Pennsylvania (Mr. Casey), the Senator from Vermont (Mr. Sanders), the Senator from Illinois (Mr. Durbin) and the Senator from Connecticut (Mr. Dodd) were added as cosponsors of amendment No. 5509 intended to be proposed to S. 3001, an original bill to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 5513
At the request of Mr. Whitehouse, his name was added as a cosponsor of amendment No. 5513 intended to be proposed to S. 3001, an original bill to authorize appropriations for fiscal year
2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 5520

At the request of Mr. KERRY, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of amendment No. 5520 intended to be proposed to S. 3001, an original bill to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 5541

At the request of Mrs. FEINSTEIN, the names of the Senator from Florida (Mr. MARTINEZ) was added as a cosponsor of amendment No. 5541 intended to be proposed to S. 3001, an original bill to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 5550

At the request of Mr. DOMENICI, the names of the Senator from Kentucky (Mr. Bunning) and the Senator from Idaho (Mr. CRAPO) were added as cosponsors of amendment No. 5550 intended to be proposed to S. 3001, an original bill to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 5581

At the request of Mrs. FEINSTEIN, and Mrs. BOXER:

S. 3493. A bill to require rail carriers to develop positive rail control system plans for improving railroad safety and to increase the civil penalties for railroad safety violations; to the Committee on Commerce, Science, and Transportation.

Mrs. FEINSTEIN. Mr. President, I make these remarks on behalf of my friend and colleague, Senator BOXER... She and I are cosponsoring legislation, which I will send to the desk at the end of my remarks.

On Friday, at 4:30 p.m., a Union Pacific freight train and a Metrolink commuter train, loaded with 225 commuters, leaving Los Angeles and traveling north through the San Fernando Valley, in the Chatsworth area, collided on a single track. The collision took place at about 40 miles an hour for each train. The engine of the Metrolink train was rammed two-thirds through the first car of the Metrolink train. Here it is. Here is the Union Pacific engine and this mess is the Metrolink engine and it rammed two-thirds through the first car. Thus far, 26 people are dead. Some were dismembered by the crash, some bodies had to be removed in a dismembered state from the train. There are 138 people in the hospital, 40 of them in critical condition, and more deaths could well take place.

This accident happened because of a resistance in the railroad community in America to utilizing existing technology to produce a fail-safe control of trains to avoid colliding with each other and accidents from crashing into the rear of another. Both of these have happened in the past. Yet today there is no requirement for a safe control of track and train.

The House has passed a bill reauthorizing the Federal Railroad Administration. The Senate has passed a bill reauthorizing the Federal Railroad Administration. They both have provisions, although they are different, for safe train control in these bills. But nothing has happened here. They both have provisions, although they are different, for safe train control in these bills. But nothing has happened here. Both have provisions, although they are different, for safe train control in these bills. But nothing has happened here. Let me point out for a minute how positive train control works. Every train’s position is tracked through a global positioning, which is new technology that can monitor its location and speed. These systems constantly watch for excessive speed, improperly aligned switches, whether trains are on the wrong track, unauthorized train movements, and whether trains have missed signals. Each train also has equipment on board that can take over from the engineer if the train doesn’t comply with the safety signals. The system will override the engineer and automatically put on the brakes. These systems exist and are in use today. They avoid, once again, the crashes that we have seen.

To date, positive train control has been put to use only in limited areas, including, as I said, parts of the Northeast and Chicago and Detroit. Nine railroads in at least 16 States have these positive control projects, but California is not one of them. Why? It is critical. Particularly when—given the element of human error, which we may well see in this instance—it may well have been a cell phone that was in use at the time of the accident by the engineer.

Let me tell you what sort of hours this engineer works. He works 5 days a week, and it is an 11-hour day. It is a split shift of 15 hours. Let me explain. He is due at work at 6 in the morning. He then has 4 hours off but returns to work from 3 p.m. to 9 p.m. That is an 11-hour day in an engine on high alert in major populated areas. He performs a critical function, and he does it on an 11-hour workday on a split shift. I think that is untenable.

The NTSB, the National Transportation Safety Board, has pushed again and again for positive train control systems, particularly after a deadly crash in my own State in Orange County in 2002. Three people died and two hundred sixty were injured. In the Orange County crash, the National Transportation Safety Board concluded that a Metrolink Northern engineer and a conductor were talking to each other. They failed to see a yellow warning light telling them to slow down. I think that same thing has happened again. Their freight train slammed into another Metrolink commuter train that had stopped on the same track.

Now, we know that positive, or safe, train control would prevent 40 to 60 accidents a year, 7 fatalities, and 55 injuries a year. So why hasn’t it been put in place? I actually believe it is negligence, and I will even go as far to say I believe it is criminal negligence not to do so.
The report also concluded that positive train control could have prevented a fatal collision in Graniteville, SC, in 2005. In this accident, a rail employee failed to properly align a track switch. As a result, several cars derailed, deadly chlorine gases escaped, and nine people died.

Cost is used as the reason not to do this, but I ask: How can we afford not to do it, whatever the cost? How many accidents does it take? How many deaths does it take? How many injuries does it take? Well, experts estimate that the cost is about $2.3 billion to install safe, technological train controls on 100,000 miles of track around the United States—high priority track.

Today, my colleague, Senator BOXER, and I are introducing legislation which takes the strongest parts of the House and Senate bills and beams them up. This legislation would require positive train controls for major freight and passenger lines. By 2012, areas declared by the Department of Transportation must run with positive train control systems. Railroads would be required to develop plans to implement these controls within 1 year of enactment of the legislation. These plans must be submitted to the Secretary of Transportation also within 1 year of enactment. It sets a deadline of December 31, 2014, for safe rail control to be in place on all major freight and passenger lines in America. It would be mandatory, and it would require penalties for noncompliance, with fines of up to $100,000 per violation.

Passenger rail will not succeed in this country unless public safety is guaranteed. Again, on Friday, these trains hit at 40 miles per hour. What happens when trains pile into each other at 120 miles per hour?

I have asked the majority leader to include this in the continuing resolution. I don’t know whether he will—well, I think it is a remote possibility—but I do believe we need to get this moving right now.

Once again, look at this. When we know there is global positioning that can be in place to shut down the freight train and the passenger train before they run into each other and we do nothing about it, then I believe this body is also culpable and negligent.

Mr. President, if I might, I send this legislation to the desk with a plea that it be enacted right away, with a plea that we get the positioning moving, with a plea that we get 100,000 miles of high-priority track equipped with global positioning so this never again can happen in a high-priority passenger-freight train area where the trains are traveling on the same track. If we don’t do it, it is going to happen again.

By Mr. VOINOVICH (for himself, Mr. BROWN, Mr. HARKIN, Mr. CUBIN, Mr. VITTER, Mr. OBAMA, Mr. BAYH, and Mr. LUGAR):

S. 3408. A bill to amend title 46, United States Code, to extend the exemption from the fire-retardant materials construction requirement for vessels operating within the Boundary Line; to the Committee on Commerce, Science, and Transportation.

Mr. VOINOVICH. 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. 3408
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF EXEMPTION.
Section 3503(a) of title 46, United States Code, is amended by striking “2008” and inserting “2018”.

By Mr. FEINGOLD (for himself and Mrs. FEINSTEIN):

S. 3501. A bill to ensure that Congress notifies the Department of Justice determines that the Executive Branch is not bound by a statute; to the Committee on the Judiciary. Mr. FEINGOLD. Mr. President, today I am introducing, along with the senior Senator from California, Senator FEINSTEIN, the Vehicle Safety Accountability Act of 2008.

In short, the bill would require the Attorney General to report to Congress when the Department of Justice issues a legal opinion concluding that the executive branch is not bound by a statute. Along with the Executive Order Integrity Act of 2008, which I introduced in July with the junior Senator from Rhode Island, Senator WHITEHOUSE, this bill takes an important step toward curbing the executive branch’s reliance on secret law.

The principle behind this bill is straightforward. It is a basic tenet of democratic government that the people have a right to know the law. The very notion of secret law” has been described in court opinions and law text books as “repugnant” and “an abomination.” That’s why the laws passed by Congress have historically been matters of public record.

But the law that applies in this country includes more than just statutes. It includes regulations, the controlling legal interpretations of the executive branch and the courts, and certain Presidential directives. As we learned at a hearing of the Judiciary Committee’s Constitution Subcommittee that I chaired, the President’s executive authority is defined by the constraints of the Foreign Intelligence Surveillance Act. The titles of other OLC opinions referenced in the Yoo memo strongly suggest that other statutory constraints have been dispensed of in a similar manner.

The secrecy of these opinions cannot be justified or explained away by a wholesale claim of privilege. To be sure, there are sound arguments for shielding from public disclosure deliberations among OLC lawyers, as well as final OLC opinions that are not adopted as the basis for an executive branch policy. But once a final OLC opinion is issued and adopted by an executive

terpretation than OLC, the court’s interpretation would prevail—but many OLC opinions address matters that courts never have the chance to decide. On those matters, OLC essentially steps into the role of the courts as the final interpreter of the law. And the heads of Jack Goldsmith, former head of OLC under President Bush: “These executive branch precedents are ‘law’ for the executive branch.”

OLC opinions are “law” in another sense as well. As mentioned by General Mukasey has stated that DOJ will not prosecute a government actor for criminal conduct if he or she relied on an OLC opinion. Thus, even if a court overturns OLC’s interpretation, the opinion may grant retroactive immunity for past violations of the law—effectively amending the law that existed at the time of the criminal act.

The Bush administration has relied heavily on secret OLC opinions in a broad range of matters involving core constitutional rights and civil liberties. The administration’s policies on interrogation of detainees were justified by OLC opinions that were withheld from Congress and the public for several years. The President’s warrantless wiretapping program was justified by OLC opinions that, to this day, have been seen only by a select few Members of Congress. And, when it was finally made public this year, the May 2006 memorandum on torture written by John Yoo with references to other OLC memos that Congress and the public have never seen—on subjects ranging from the Government’s ability to detain U.S. citizens without congressional authorization to the Government’s ability to operate outside the Fourth Amendment in domestic military operations.

The few opinions whose content has been made public share a notable characteristic: the conclusion that various laws enacted by Congress do not apply to the conduct of the executive branch. The 2003 Yoo torture memo took the alarming position that the executive branch was not bound by the criminal statute prohibiting torture when interrogating detainees. Likewise, according to congressional testimony of former OLC head Steve Bradbury, the President’s warrantless wiretapping program was supported by OLC opinions claiming that the President’s broad range of authority was defined and limited by the constraints of the Foreign Intelligence Surveillance Act. The titles of other OLC opinions referenced in the Yoo memo strongly suggest that other statutory constraints have been dispensed of in a similar manner.

The secrecy of these opinions cannot be justified or explained away by a wholesale claim of privilege. To be sure, there are sound arguments for shielding from public disclosure deliberations among OLC lawyers, as well as final OLC opinions that are not adopted as the basis for an executive branch policy. But once a final OLC opinion is issued and adopted by an executive
The Supreme Court expressed the same sentiment in legal terms, holding that "opinions and interpretations which embody [an agency's] effective law and policy" are not privileged, precisely because agencies otherwise would be operating under "secret law."

There is an even stronger interest in disclosure when an OLC opinion concludes that the executive branch is not bound by a Federal statute. In such cases, the executive branch is no longer operating according to the rules that are on the books, and there is truly a separate—and sometimes conflicting—regime of secret law. Moreover, Congress has an obvious institutional interest in knowing when DOJ opines that the executive branch is not bound by a statute because of constitutional reasons. If DOJ concludes that a statute is unconstitutional, Congress may be tempted to challenge this position, or it may decide to simply rewrite the law to avoid the perceived constitutional problems. Similarly, if DOJ concludes that Congress did not intend for a statute to apply to the executive branch, then Congress should have the opportunity to assess this conclusion and revise the law if necessary to make its intent clear. None of this can happen when Congress is denied access to the opinion.

Recognizing Congress's strong interest in knowing when DOJ takes issue with its enactments, current law requires the Attorney General to report to Congress if DOJ declines to enforce or defend a statute because the statute is unconstitutional. This reporting provision, however, does not reach situations in which OLC stops short of declaring a statute unconstitutional, but construes the statute not to apply to the executive branch in order to avoid a finding of unconstitutionality. At the hearing I chaired on secret law, Dawn Johnsen, the head of OLC for 2 years under President Clinton, testified that the law should be amended to require reporting to Congress in these situations as well. Bradford Berenson, former counsel to President Bush from 2001–2003, agreed with this modest proposal.

The bill that Senator FEINSTEIN and I are introducing today grew out of this bipartisan agreement. It was drafted with the substantial assistance and input of Johnsen, Berenson, and an impressive group of some of the finest attorneys to serve in OLC in past years, many of whom are now constitutional scholars. The aim was to craft a targeted bill—one that would allow Congress to be sufficiently informed when OLC purports to release the executive branch from the strictures of a statute, without encroaching on the institutional interests, prerogatives, and preserves of power. The provisions were designed to ensure that an appropriate balance of power was maintained between the legislative and executive branches. The result is an approach that is narrowly tailored and eminently reasonable.

The bill also leaves intact any provision that authorizes the Attorney General to exclude privileged information from the report to Congress. This provision pertains to the disclosure requirement added to title 28, U.S.C. section 530D, the statutory provision that requires the Attorney General to report to Congress if DOJ decides not to enforce or defend a statute on the ground that it is unconstitutional. Under the bill, the Attorney General must also report to Congress under four circumstances. These circumstances represent the means by which OLC is most likely to exempt otherwise applicable provisions of law or to place this letter in the record along with other documents.

First, a report is required if DOJ issues an opinion that concludes that a Federal statute is unconstitutional. The Supreme Court has expressed the same sentiment in legal terms, holding that "opinions and interpretations which embody [an agency's] effective law and policy" are not privileged, precisely because agencies otherwise would be operating under "secret law."

Second, a report is required if DOJ rewrites a statute so that its provisions are not presented with the opportunity for an enforcement action. In other words, if DOJ determines that applying a statute to executive branch officials would raise constitutional problems, regardless of the validity of this determination, the effect is to exempt the executive branch from the reach of the statute—a result that Congress should know about.

Third, a report is required if DOJ relies on a "legal presumption" against applying a statute to the executive branch. For example, the Yoo torture memo relied on the legal presumption that laws of general applicability, such as those prohibiting torture, do not apply to the conduct of the military during wartime. The criterion of a "legal presumption" serves to keep the reporting requirement narrowly tailored: it captures situations in which the executive branch is exempted from a statute categorically, without requiring reporting in routine run-of-the-mill cases where a particular executive action simply does not fall within the statute.

Fourth, a report is required if DOJ determines that a statute has been superseded by a later enactment, when the later enactment does expressly say so. This provision would address situations like OLC's conclusion that the Authorization for Use of Military Force superseded the constraints of the Foreign Intelligence Surveillance Act. In such cases, reporting to Congress gives Congress the opportunity to clarify its intent. The reporting requirements are accompanied by several provisions to ensure scrupulous respect for executive privileges and prerogatives. The Attorney General would not be required to disclose the OLC opinion itself, as long as the report to Congress includes the information already required under 28 U.S.C. section 530D whenever DOJ decides not to enforce or defend a statute—namely, a complete and detailed statement of the relevant issues and background. Furthermore, the bill leaves intact section 530D's provision that the Attorney General to exclude privileged information from the statement; the only information that could not be excluded is the date of the opinion, the statute at issue, and which of the four reporting categories the opinion falls within. No report would be required if officials expressly declined to adopt or act on the opinion, thus protecting from disclosure opinions that are truly advisory in nature.

The bill also protects the security of classified information that could harm the national security if disclosed publicly could be provided to Congress in a classified annex. Classified information involving intelligence activities would be reported only to the Intelligence and Judiciary Committees—or, under appropriate circumstances, a more narrow "Gang of Twelve," to parallel the more limited disclosure provisions of the National Security Act.

The bill's targeted focus and careful preservation of executive prerogatives has earned it the support of former officials from both the Clinton and Bush Administrations. Former head of OLC, Dawn Johnsen, and former counsel to President Bush, Bradford Berenson, have written a joint letter endorsing the bill. In their words: "[W]e believe [the bill] strikes a sensible and constitutionally sound accommodation between the executive branch's need to have candid legal advice, to protect national security information, and to avoid being overburdened by overly intrusive reporting requirements and the legislative branch's need to know the manner in which its laws are interpreted." They write that enacting this bill "would have the effect of enhancing democratic accountability and the rule of law." I ask unanimous consent to place this letter in the record along with my statement.

Of course, the bill does not represent a perfect or complete solution to the problem of secret law. For example, it would not reach the now-infamous OLC conclusion that the infliction of pain does not constitute "torture" unless it approaches the level associated with "death, organ failure, or serious impairment of body functions"—an interpretation that effectively exempted the executive branch from the full scope of the anti-torture statute. Nonetheless, the bill also allows the Attorney General to withhold privileged information, Congress may...
well be forced to operate under a significant informational handicap. Nonetheless, the bill represents an important and necessary step toward curbing the secret law and restoring the proper balance of power between the executive and legislative branches.

When OLC concludes that a statute passed by Congress does not bind the executive branch, Congress has a right to know that the executive branch is not operating under the statute, and to be apprised of the law under which the executive branch is operating. The bill I am introducing with Senator Feinstein codifies that right. I urge all of my colleagues in the Senate to support it.

Mr. President, I ask unanimous consent that the text of the bill and a letter of support be printed in the Record.

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

S. 3501

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 “OLC Reporting Act of 2008.”

SEC. 2. REPORTING.

Section 530D of title 28, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) in subparagraph (B), by striking “or” at the end;

(ii) by redesigning subparagraph (C) as subparagraph (D); and

(iii) by inserting after subparagraph (B) the following:

“(C) except as provided in paragraph (3), issues an authoritative legal interpretation (including an interpretation under section 511, 512, or 513 by the Attorney General or by an officer, employee, or agent of the Department of Justice pursuant to a delegation of authority under section 510 of any provision of any Federal statute; or

“(i) not later than 30 days after the date on which the Attorney General, the Office of Legal Counsel, or any other officer of the Department of Justice issues the authoritative legal interpretation of the Federal statutory provision; or

“(II) the President determines that it is essential to limit access to the information described in subsection (a)(1) to meet extraordinary circumstances affecting vital interests of the United States.”;

(B) in paragraph (2), by striking “and” at the end;

(C) by inserting after paragraph (2) the following:

“(3) under subsection (a)(1)(C)—

“(A) any classified information shall be submitted to each officer specified in paragraph (2); and

“(B) the directive described in subparagraph (D) is in effect.

“(4) CLASSIFIED INFORMATION.—

“(A) SUBMISSION OF REPORT CONTAINING CLASSIFIED INFORMATION REGARDING INTELLIGENCE ACTIVITIES.—Except as provided in subsection (b), if the Attorney General submits a report relating to an instance described in paragraph (1) that includes a classified annex containing information relating to intelligence activities, the report shall be considered to be submitted to the Congress for the purposes of paragraph (1) if—

“(i) the unclassified portion of the report is submitted to each officer specified in paragraph (2); and

“(ii) the classified annex is submitted to the Select Committee on Intelligence and the Committee on the Judiciary of the Senate and the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives;

“(B) SUBMISSION OF REPORT CONTAINING CERTAIN CLASSIFIED INFORMATION ABOUT COVETED ACTIONS.—

“(1) IN GENERAL.—In a circumstance described in clause (ii), a report described in that clause shall be considered to be submitted to the Congress for the purposes of paragraph (1) if—

“(i) the unclassified portion of the report is submitted to each officer specified in paragraph (2); and

“(ii) the classified annex is submitted to—

“(aa) the chairman and ranking minority member of the Select Committee on Intelligence of the Senate;

“(bb) the chairman and ranking minority member of the Committee on the Judiciary of the Senate;

“(cc) the chairman and ranking minority member of the Committee on Intelligence of the House of Representatives;

“(dd) the chairman and ranking minority member of the Committee on the Judiciary of the House of Representatives;

“(ee) the Speaker and minority leader of the House of Representatives; and

“(ff) the majority leader and minority leader of the Senate.

“(ii) CIRCUMSTANCES.—A circumstance described in this clause is a circumstance in which—

“(I) the Attorney General submits a report relating to an instance described in paragraph (1) that includes a classified annex containing information relating to a Presidential finding described in section 503(a) of the National Security Act of 1947 (50 U.S.C. 413a); and

“(II) the President determines that it is essential to limit access to the information described in subsection (a)(1) to meet extraordinary circumstances affecting vital interests of the United States.”;

(ii) by inserting before subparagraph (B), as so redesignated, by striking “subsection (a)(1)(C)” and inserting “subsection (a)(1)(D)”;

(B) in paragraph (3), as so redesignated—

(i) by striking “reasons for the policy or determination” and inserting “reasons for the policy, authoritative legal interpretation, or determination”;

(ii) by inserting “issuing such authoritative legal interpretation,” after “or implementing such policy,”;

(iii) by striking “except that” and inserting “provided that”;

(iv) by redesigning subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively;

(v) by inserting before subparagraph (B), as so redesignated, the following:

“(A) any classified information shall be provided in a classified annex, which shall be handled in accordance with the security procedures established under section 501(c) of the National Security Act of 1947 (50 U.S.C. 413b); and

(vi) in subparagraph (B), as so redesignated—

(I) by inserting “except for information described in paragraph (1) or (2),” before “such details may be omitted”; and

(II) by striking “national-security- or classified information, of any,” and

(III) by striking “or other law” and inserting “or other statute”;

(vii) in subparagraph (C), as so redesignated—

(I) by inserting redesigning clauses (i) and (ii) as clauses (ii) and (iii), respectively;

(II) by inserting before clause (i), as so redesignated, the following:

“(i) the case of an authoritative legal interpretation described in subsection (a)(1)(C), if a copy of the Office of Legal Counsel or...
other legal opinion setting forth the authori-
tative legal interpretation is provided:1; (III) in clause (ii), as so redesignated, by striking “subsection (a)(1)(C)(i)” and insert-
ing “subsection (a)(1)(C)(ii)” and (IV) in clause (iii), as so redesignated, by striking “subsection (a)(1)(C)(ii)” and insert-
ing “subsection (a)(1)(D)(i)”; and (E) as so redesignated by striking “subsection (a)(1)(D)(i)” and insert-
ing “subsection (a)(1)(D)(ii)” and (F) in subsection (e) — (a) striking “issues an authoritative interpretation described in subsection (a)(1)(C),” after “policy described in sub-
section (a)(1)(A),”.

S. RES. 662

Hon. Patrick Leahy,
Chairman, Senate Committee on the Judiciary, U.S. Senate, Washington DC.
Hon. Arlen Specter, U.S. Senate, Washington DC.

DEAR CHAIRMAN LEAHY AND SENATOR SPECTER: We write to convey our strong support for “The OLC Reporting Act of 2008,” to be introduced by Senator Feingold and Senator Feinstein. We respectfully urge the committee to give the bill prompt and serious consideration, because we believe that the additional reporting required by this act would create would have the effect of enhancing democratic accountability and the rule of law. We both had the privilege to testify before Senators Feingold and Brownback, and the Subcommittee on the Constitution of the Senate Committee on the Judiciary, on April 30, 2008, on the report of the Senate Committee, which examined the Secret Law and the Threat to Democratic and Accountable Government.” We served in different administrations, Brad Berenson as Associate Counsel to President George W. Bush and Dawn Johnsen as Acting Assistant Attorney General for the Office of Legal Counsel and Dawn Johnson as Acting Assistant Attorney General for the Office of Legal Counsel and Dawn Johnson as Acting Assistant Attorney General for the Office of Legal Counsel and Dawn Johnson as Acting Assistant Attorney General for the Office of Legal Counsel. We served in different administrations, Brad Berenson as Associate Counsel to President George W. Bush and Dawn Johnsen as Acting Assistant Attorney General for the Office of Legal Counsel and Dawn Johnson as Acting Assistant Attorney General for the Office of Legal Counsel. We served in different administrations, Brad Berenson as Associate Counsel to President George W. Bush and Dawn Johnsen as Acting Assistant Attorney General for the Office of Legal Counsel and Dawn Johnson as Acting Assistant Attorney General for the Office of Legal Counsel.

WHEREAS Celebrate Safe Communities week and year-round, individual and collective action in collaboration with law enforcement and other supporting local agencies to reduce crime and build safer communities throughout the United States.

WHEREAS local leaders in the Omaha area formed a corporation known as the University of Omaha on October 8, 1908, for the promotion of sound learning and education.

WHEREAS, in 1929, the University of Omaha announced it would accept all University of Nebraska coursework as equivalent to its own.

WHEREAS, on September 14, 1909, the first 26 University of Omaha students gathered in Redick Hall, located west of 26th and Pratt Streets in the city of Omaha.

WHEREAS, during the first 10 years of existence, the key division of the University of Omaha was Liberal Arts College, designed to produce a well-rounded and informed student.

WHEREAS, in 1916, the University of Nebraska announced it would accept all University of Omaha coursework as equivalent to its own.

WHEREAS, in December 1916, the University of Omaha opened its doors.

WHEREAS, in November 1938, capable of accommodating 20 acres of land north of Elmwood Park and south of West Dodge Street, which would become the site of the present-day campus.

WHEREAS the week of October 2, 2008, through October 4, 2008, as “Celebrate Safe Communities” week.

WHEREAS the week of October 2, 2008, through October 4, 2008, as “Celebrate Safe Communities” week.

WHEREAS, from crime; and

WHEREAS the increased enrollment of World War II veterans in the Montgomgery GI Bill led to the completion of several new buildings, including a field house,
library, student center, and engineering building;

Whereas, in 1950, the College of Education was separated from the College of Arts and Sciences and bestowed a degree on 1/3 of all teachers in Omaha public schools held degrees from the Municipal University;

Whereas the College of Business Administration, founded in 1952, and the College of Education through the College of Adult Education “Bootstrap” program;

Whereas the University received a Reserve Officers’ Training Corps (ROTC) unit in July 1951;

Whereas Municipal University became a leader in radio-television journalism by founding its own radio station in 1951, and in 1952 became the first institution in the Midwest to offer courses by television;

Whereas the University has established innovative programs to enrich the community through service learning, support of the arts, outreach programs for business, education, and government, and creation of dual-enrollment programs for Nebraska high school students;

Whereas the University has 90,000 graduates, with nearly half of those still residing, raising families, and building careers in the Omaha metropolitan area; and

Whereas the year 2008 is the 150th anniversary of the founding of the University of Nebraska at Omaha; the activities to commemorate its founding will begin on October 8, 2008; Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress congratulates the University of Nebraska at Omaha on its 100 years of outstanding service to the City of Omaha, the State of Nebraska, the United States, and the world in fulfilling its mission of providing sound learning and education.

AMENDMENTS SUBMITTED AND PROPOSED

SA 5596. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table.

SA 5597. Mr. NELSON of Florida submitted an amendment intended to be proposed to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5598. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5599. Mr. BAYH submitted an amendment intended to be proposed to amendment SA 5577 inserted by Mr. BAYH and intended to be proposed to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5600. Ms. COLLINS submitted an amendment intended to be proposed by him to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5601. Mr. BIDEN (for himself and Mr. LUGAR) submitted an amendment intended to be proposed to amendment SA 5411 submitted by Mr. BIDEN (for himself and Mr. LUGAR) and intended to be proposed to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5602. Mr. REDDING (for himself and Mr. LUGAR) submitted an amendment intended to be proposed to amendment SA 5466 submitted by Mr. BIDEN (for himself and Mr. LUGAR) and intended to be proposed to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5603. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5604. Mr. DURBIN (for himself and Mr. BROWNBACK) submitted an amendment intended to be proposed by him to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5605. Mr. DURBIN (for himself and Mr. BROWNBACK) submitted an amendment intended to be proposed to amendment SA 5355 submitted by Mr. GRAHAM (for himself and Mr. LIEBERMAN) and intended to be proposed to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5606. Mr. NELSON submitted an amendment intended to be proposed to amendment SA 5355 submitted by Mr. GRAHAM (for himself and Mr. LIEBERMAN) and intended to be proposed to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5607. Mr. NELSON, of Florida submitted an amendment intended to be proposed to amendment SA 5356 submitted by Mr. SESSIONS (for himself, Mr. NELSON of Nebraska, Mr. LIEBERMAN, Mr. KYL, Mr. INHOFE, Mr. GRAHAM, Mr. VITTER, Mr. BROWNBACK, Mr. JOHNSON, and Mr. COLE, Pros.) and intended to be proposed to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5608. Mr. CORYN submitted an amendment intended to be proposed by him to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5609. Ms. KLOBUCHAR submitted an amendment intended to be proposed by her to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5610. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5611. Ms. COLLINS (for herself and Mr. LIEBERMAN) submitted an amendment intended to be proposed by her to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5612. Mr. KERRY submitted an amendment intended to be proposed to amendment SA 5593 submitted by Mr. KERRY (for himself and Mr. SMITH) and intended to be proposed to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5613. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 5593 submitted by Mr. KERRY (for himself and Mr. SMITH) and intended to be proposed to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5614. Mr. LEVIN (for Mr. AKARA) proposed an amendment to the bill S. 3025, United States Code, to improve and enhance compensation and pension, housing, labor and education, and insurance benefits for veterans, and for other purposes.

SA 5615. Mr. SANDERS submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table.

SA 5616. Mr. KERRY (for himself and Ms. SNOWE) submitted an amendment intended to be proposed by him to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5617. Mr. KERRY (for himself and Ms. SNOWE) submitted an amendment intended to be proposed by him to the bill S. 3001, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 5596. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

SEC. 2608. EXPANSION OF AUTHORITY FOR PILOT PROGRAMS FOR ACQUISITION OR CONSTRUCTION OF MILITARY UNACCOMPANIED HOUSING.

Section 2608a of title 10, United States Code, is amended—

(1) by striking “The Secretary of the Navy” and inserting “(1) The Secretary of the Navy”;

(B) by adding at the end the following new paragraph:

“(2) The Secretary of the Army may carry out a project under the authority of this section or another provision of this subchapter to use the private sector for the acquisition or construction of military unaccompanied housing for all ranks at a location with significant identified barracks deficiencies.”;

(3) by the following:

“(d)(1), by striking “The Secretary of the Navy” and inserting “The Secretaries of the Army and Navy”;

(4) in subsection (e)(1), by striking “The Secretary of the Navy shall transmit” and inserting “The Secretaries of the Army and Navy shall each transmit”;

(5) in subsection (f)—

(A) by striking “The authority of” and inserting “(1) The authority”;

(B) by adding at the end the following new paragraph:

“(2) The authority of the Secretary of the Army to enter into a contract under the pilot program shall expire September 30, 2010.”.

SA 5597. Mr. NELSON of Florida submitted an amendment intended to be proposed to amendment SA 5272 submitted by Mr. NELSON of Florida and intended to be proposed to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy,
to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, the following:

SEC. 1433. INTELLIGENCE TRAINING PROGRAM.

(a) IN GENERAL.

(1) ESTABLISHMENT OF PROGRAM.—Section 922 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1811) is amended to read as follows:

"(b) AUTHORITY.—The Director is authorized to establish such elements of the intelligence community as the Director determines are appropriate.

(b) SENSE OF CONGRESS ON FUNDING.—It is the sense of Congress that the United States should increase the annual funding for intelligence education and training programs.

(c) ANNUAL DETERMINATION.—The Director shall annually determine the amount necessary to provide for intelligence education and training programs.

(d) FUNDING.—The annual determination shall be made available to the Appropriations Committees of the Congress at such time and in such manner as the Director shall determine.

(b) TITLE IX.—The table of contents in that title shall be amended by inserting in the following:

"Sec. 922. Intelligence training program."

(b) TITLE IX.—The table of contents in that title shall be amended by inserting in the following:

"Sec. 922. Intelligence training program."

(b) SENSE OF CONGRESS ON FUNDING.—It is the sense of Congress that for each fiscal
year after fiscal year 2009, Congress should not appropriate funds for the program established under section 922(b) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005, as amended, and for defense activities of the Department of Energy, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

SEC. 722. REPORT ON COGNITIVE REHABILITATION FOR MEMBERS OF THE ARMED FORCES WITH TRAUMATIC BRAIN INJURY.

The Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the House of Representatives a report setting forth the evidence to be required from a long term, integrated study on treatments for cognitive rehabilitation for members of the Armed Forces who have sustained a Traumatic Brain Injury (TBI) in order to permit the Department to Defense to determine how receipt of cognitive rehabilitation by such members for Traumatic Brain Injury could be reimbursed as a health care benefit.

SA 5599. Mr. BAYH submitted an amendment intended to be proposed to amendment SA 5519 submitted by Mr. JOHNSON (for himself, Mr. THUNE, and Ms. STABENOW) and intended to be proposed to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

SEC. 722. REPORT ON COGNITIVE REHABILITATION FOR MEMBERS OF THE ARMED FORCES WITH TRAUMATIC BRAIN INJURY.

The Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the House of Representatives a report setting forth the evidence to be required from a long term, integrated study on treatments for cognitive rehabilitation for members of the Armed Forces who have sustained a Traumatic Brain Injury (TBI) in order to permit the Department to Defense to determine how receipt of cognitive rehabilitation by such members for Traumatic Brain Injury could be reimbursed as a health care benefit.

SA 5600. Mr. CARPER submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

SEC. 722. REPORT ON COGNITIVE REHABILITATION FOR MEMBERS OF THE ARMED FORCES WITH TRAUMATIC BRAIN INJURY.

The Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the House of Representatives a report setting forth the evidence to be required from a long term, integrated study on treatments for cognitive rehabilitation for members of the Armed Forces who have sustained a Traumatic Brain Injury (TBI) in order to permit the Department to Defense to determine how receipt of cognitive rehabilitation by such members for Traumatic Brain Injury could be reimbursed as a health care benefit.

SA 5598. Mr. JOHNSON submitted an amendment intended to be proposed to amendment SA 5519 submitted by Mr. JOHNSON (for himself, Mr. THUNE, and Ms. STABENOW) and intended to be proposed to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

SEC. 722. REPORT ON COGNITIVE REHABILITATION FOR MEMBERS OF THE ARMED FORCES WITH TRAUMATIC BRAIN INJURY.

The Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the House of Representatives a report setting forth the evidence to be required from a long term, integrated study on treatments for cognitive rehabilitation for members of the Armed Forces who have sustained a Traumatic Brain Injury (TBI) in order to permit the Department to Defense to determine how receipt of cognitive rehabilitation by such members for Traumatic Brain Injury could be reimbursed as a health care benefit.

SA 5599. Mr. BAYH submitted an amendment intended to be proposed to amendment SA 5519 submitted by Mr. BAYH and intended to be proposed to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

SEC. 722. REPORT ON COGNITIVE REHABILITATION FOR MEMBERS OF THE ARMED FORCES WITH TRAUMATIC BRAIN INJURY.

The Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the House of Representatives a report setting forth the evidence to be required from a long term, integrated study on treatments for cognitive rehabilitation for members of the Armed Forces who have sustained a Traumatic Brain Injury (TBI) in order to permit the Department to Defense to determine how receipt of cognitive rehabilitation by such members for Traumatic Brain Injury could be reimbursed as a health care benefit.

SA 5600. Mr. CARPER submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

SEC. 722. REPORT ON COGNITIVE REHABILITATION FOR MEMBERS OF THE ARMED FORCES WITH TRAUMATIC BRAIN INJURY.

The Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the House of Representatives a report setting forth the evidence to be required from a long term, integrated study on treatments for cognitive rehabilitation for members of the Armed Forces who have sustained a Traumatic Brain Injury (TBI) in order to permit the Department to Defense to determine how receipt of cognitive rehabilitation by such members for Traumatic Brain Injury could be reimbursed as a health care benefit.
SA 5402. Mr. BIDEN (for himself and Mr. LUGAR) submitted an amendment intended to be proposed to amendment SA 5466 submitted by Mr. BIDEN (for himself and Mr. LUGAR) and intended to be proposed to the Bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

Subtitle E—Enhanced Partnership With Pakistan

SEC. 1241. SHORT TITLE.
This subtitle may be cited as the ‘‘Enhanced Partnership with Pakistan Act of 2008’’.

SEC. 1242. FINDINGS.
Congress makes the following findings:
(1) The people of Pakistan and the United States have a long history of friendship and comity, and the vital interests of both nations are well-served by strengthening and deepening the relationship.
(2) In February 2008, the people of Pakistan elected a civilian government, reversing months of political tension and intrigue, as well as improving concerns over governance and their own democratic reform and political development.
(3) A democratic, moderate, modernizing Pakistan would represent the wishes of that country’s populace, and serve as a model to other countries around the world.
(4) Pakistan is a major non-NATO ally of the United States, and has been a valuable partner in the battle against al Qaeda and the Taliban.
(5) The struggle against al Qaeda, the Taliban, and affiliated terrorist groups in and outside Pakistan has led to the deaths of several thousand Pakistani civilians and members of the security forces of Pakistan over the past 6 years.
(6) Since the terrorist attacks of September 11, 2001, more al Qaeda terrorist suspects have been apprehended in Pakistan than in any other country, including Khalid Sheikh Mohammed, Ramzi bin al-Shibh, and Abu Faraj al-Libi.
(7) Despite the sacrifices and cooperation of the security forces of Pakistan, the top leadership of al Qaeda and affiliated terrorist groups, and rank-and-file of affiliated terrorist groups, are believed to use Pakistan’s Federally Administered Tribal Areas (FATA) as a haven and base from which to organize terrorist actions in Pakistan and with global reach.
(8) According to a Government Accountability Office Report, (GAO-08-622), ‘‘since 2003, the administration’s national security strategies and Congress have recognized that Pakistan is a critical and central element of national power—diplomatic, military, intelligence, development assistance, economic, and law enforcement support—required to address the terrorist threat emanating from the FATA’’ and that such a strategy was also mandated by section 7102(b)(3) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 22 U.S.C. 2656f note) and section 2042(b)(2) of the Implementing the Recommendations of the 9/11 Commission Act of 2007 (Public Law 110–53; 22 U.S.C. 2375 note).

SEC. 1243. DEFINITIONS.

SEC. 1244. POLICIES AND GOALS.
The Secretary of State shall, in cooperation with the Secretary of Defense, develop a comprehensive plan that includes all elements of national power—diplomatic, military, intelligence, development assistance, economic, and law enforcement support— required to address the terrorist threat emanating from the FATA, and such a strategy was also mandated by section 7102(b)(3) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 22 U.S.C. 2656f note) and section 2042(b)(2) of the Implementing the Recommendations of the 9/11 Commission Act of 2007 (Public Law 110–53; 22 U.S.C. 2375 note).

SEC. 1245. TRANSPORTATION OF GOODS AND SERVICES.
The United States shall facilitate relations among the countries referred to in subsection (a) for the benefit of the United States, and has been a valuable partner in the battle against al Qaeda and the Taliban.

SEC. 1246. SECURITY FORCES.

SEC. 1247. ENHANCED PARTNERSHIP.

SEC. 1248. CONCLUSION.

SEC. 1249. EFFECTIVE DATE. The amendments made by this section shall take effect on October 1, 2008.

SA 5601. Mr. BIDEN (for himself and Mr. LUGAR) submitted an amendment intended to be proposed to amendment SA 5441 submitted by Mr. REID (for Mr. BIDEN (for himself and Mr. LUGAR)) and intended to be proposed to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table.

In lieu of the matter proposed to be inserted, insert the following:

Subtitle E—Other Matters

SEC. 1241. SPECIAL ENVOY FOR AFGHANISTAN, PAKISTAN, AND INDIA.

(a) STATEMENT OF POLICY.—Congress declares that it is in the national interest of the United States that the countries of Afghanistan, Pakistan, and India work together to address common challenges hampering the stability, security, and development of their region and to enhance their cooperative security relationship.

(b) ESTABLISHMENT.—The President should appoint a special envoy to promote closer cooperation among the countries referred to in subsection (a) of this section.

(c) APPOINTMENT.—The special envoy will be appointed with the advice and consent of the Senate and shall have the rank of ambassador.

(d) DUTIES.—The primary responsibility of the special envoy, reporting through the Assistant Secretary of State for South and Central Asia, shall be to strengthen and facilitate relations among the countries referred to in subsection (a) for the benefit of stability and economic growth in the region.

SA 5602. Mr. BIDEN (for himself and Mr. LUGAR) submitted an amendment intended to be proposed to amendment SA 5566 submitted by Mr. BIDEN (for himself and Mr. LUGAR) and intended to be proposed to the Bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

Subtitle E—Enhanced Partnership With Pakistan

SEC. 1241. SHORT TITLE.
This subtitle may be cited as the ‘‘Enhanced Partnership with Pakistan Act of 2008’’.

SEC. 1242. FINDINGS.
Congress makes the following findings:
(1) The people of Pakistan and the United States have a long history of friendship and comity, and the vital interests of both nations are well-served by strengthening and deepening the relationship.
(2) In February 2008, the people of Pakistan elected a civilian government, reversing months of political tension and intrigue, as well as improving concerns over governance and their own democratic reform and political development.
(3) A democratic, moderate, modernizing Pakistan would represent the wishes of that country’s populace, and serve as a model to other countries around the world.
(4) Pakistan is a major non-NATO ally of the United States, and has been a valuable partner in the battle against al Qaeda and the Taliban.
(5) The struggle against al Qaeda, the Taliban, and affiliated terrorist groups in and outside Pakistan has led to the deaths of several thousand Pakistani civilians and members of the security forces of Pakistan over the past 6 years.
(6) Since the terrorist attacks of September 11, 2001, more al Qaeda terrorist suspects have been apprehended in Pakistan than in any other country, including Khalid Sheikh Mohammed, Ramzi bin al-Shibh, and Abu Faraj al-Libi.
(7) Despite the sacrifices and cooperation of the security forces of Pakistan, the top leadership of al Qaeda and affiliated terrorist groups, and rank-and-file of affiliated terrorist groups, are believed to use Pakistan’s Federally Administered Tribal Areas (FATA) as a haven and base from which to organize terrorist actions in Pakistan and with global reach.
(8) According to a Government Accountability Office Report, (GAO-08-622), ‘‘since 2003, the administration’s national security strategies and Congress have recognized that Pakistan is a critical and central element of national power—diplomatic, military, intelligence, development assistance, economic, and law enforcement support—required to address the terrorist threat emanating from the FATA’’ and that such a strategy was also mandated by section 7102(b)(3) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 22 U.S.C. 2656f note) and section 2042(b)(2) of the Implementing the Recommendations of the 9/11 Commission Act of 2007 (Public Law 110–53; 22 U.S.C. 2375 note).

SEC. 1243. DEFINITIONS.

SEC. 1244. POLICIES AND GOALS.
The Secretary of State shall, in cooperation with the Secretary of Defense, develop a comprehensive plan that includes all elements of national power—diplomatic, military, intelligence, development assistance, economic, and law enforcement support— required to address the terrorist threat emanating from the FATA, and such a strategy was also mandated by section 7102(b)(3) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 22 U.S.C. 2656f note) and section 2042(b)(2) of the Implementing the Recommendations of the 9/11 Commission Act of 2007 (Public Law 110–53; 22 U.S.C. 2375 note).

SEC. 1245. TRANSPORTATION OF GOODS AND SERVICES.
The United States shall facilitate relations among the countries referred to in subsection (a) for the benefit of the United States, and has been a valuable partner in the battle against al Qaeda and the Taliban.

SEC. 1246. SECURITY FORCES.

SEC. 1247. ENHANCED PARTNERSHIP.

SEC. 1248. CONCLUSION.

SEC. 1249. EFFECTIVE DATE. The amendments made by this section shall take effect on October 1, 2008.
(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means the Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations and Foreign Affairs of the House of Representatives.

(2) COUNTERINSURGENCY.—The term “counterinsurgency” means efforts to combat al Qaeda and other foreign terrorist organizations that are designated by the Secretary of State in accordance with section 219 of the Immigration and Nationality Act (8 U.S.C. 1189).

(4) FATA.—The term “FATA” means the Federally Administered Tribal Areas of Pakistan.

(5) NWFP.—The term “NWFP” means the North West Frontier Province of Pakistan, which has Peshawar as its provincial capital.

(6) PAKISTAN-AFGHANISTAN BORDER AREAS.—The term “Pakistan-Afghanistan border areas” includes the Pakistan regions known asNWFP, FATA, and parts of Balochistan in which the Taliban or Al Qaeda have traditionally been active.

(7) SECURITY-RELATED ASSISTANCE.—The term “security-related assistance” means—

(A) grant assistance to carry out section 23 of the Arms Export Control Act (22 U.S.C. 2763);

(B) assistance under chapter 2 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 et seq.);

(C) assistance under chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.);

(D) any equipment, supplies, and training provided pursuant to section 1206 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 119-183; 119 Stat. 3456); and

(E) any equipment, supplies, and training provided pursuant to section 1206 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 119-181; 122 Stat. 358).

(8) SECURITY FORCES OF PAKISTAN.—The term “security forces of Pakistan” means the military, police forces, Frontier Corps, and Frontier forces, including the armed forces, Inter-Services Intelligence and other foreign terrorist organizations that are designated by the Secretary of State in accordance with section 219 of the Immigration and Nationality Act (8 U.S.C. 1189).

It is the policy of the United States—

(1) to support the consolidation of democracy, good governance, and rule of law in Pakistan;

(2) to affirm and build a sustained, long-term, multifaceted relationship with Pakistan;

(3) to further the sustainable economic development and the improvement of the living conditions of its citizens by expanding United States bilateral engagement with the Government of Pakistan, especially in areas of direct interest and importance to the daily lives of the people of Pakistan;

(4) to work with Pakistan and the countries bordering Pakistan to facilitate peace in the region and harmonious relations between the countries of the region;

(5) to work with the Government of Pakistan to prevent any Pakistani territory from being used as a base or conduit for terrorist attacks in Pakistan, Afghanistan, or elsewhere in the world;

(6) to work in close cooperation with the Government of Pakistan to coordinate military and paramilitary action against terrorist targets;

(7) to work with the Government of Pakistan to help bring peace, stability, and development to all regions of Pakistan, especially those in the Pakistan-Afghanistan border areas, through an effective counterinsurgency strategy; and

(8) to expand people-to-people engagement between the United States and Pakistan, including projects that promote—

(A) political pluralism, equality, and the rule of law;

(B) respect for human and civil rights;

(C) independent, efficient, and effective judicial systems;

(D) transparency and accountability of all branches of government and judicial proceedings; and

(E) anticorruption efforts among police, civil servants, elected officials, and all levels of government administration, including the military.

SEC. 1244. STATEMENT OF POLICY.

It is the policy of the United States—

(1) to support the consolidation of democracy, good governance, and rule of law in Pakistan;

(2) to further the sustainable economic development and the improvement of the living conditions of its citizens by expanding United States bilateral engagement with the Government of Pakistan, especially in areas of direct interest and importance to the daily lives of the people of Pakistan;

(3) to work with Pakistan and the countries bordering Pakistan to facilitate peace in the region and harmonious relations between the countries of the region;

(4) to work with the Government of Pakistan to prevent any Pakistani territory from being used as a base or conduit for terrorist attacks in Pakistan, Afghanistan, or elsewhere in the world;

(5) to work in close cooperation with the Government of Pakistan to coordinate military and paramilitary action against terrorist targets;

(6) to work with the Government of Pakistan to help bring peace, stability, and development to all regions of Pakistan, especially those in the Pakistan-Afghanistan border areas, through an effective counterinsurgency strategy; and

(7) to expand people-to-people engagement between the United States and Pakistan, including projects that promote—

(A) political pluralism, equality, and the rule of law;

(B) respect for human and civil rights;

(C) independent, efficient, and effective judicial systems;

(D) transparency and accountability of all branches of government and judicial proceedings; and

(E) anticorruption efforts among police, civil servants, elected officials, and all levels of government administration, including the military.

SEC. 1246. LIMITATION ON CERTAIN ASSISTANCE.

(a) LIMITATION ON CERTAIN MILITARY ASSISTANCE.—Beginning in fiscal year 2010, no grant assistance to carry out section 23 of the Arms Export Control Act (22 U.S.C. 2763) may be provided and no assistance under chapter 2 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 et seq.) may be provided to Pakistan unless—

(1) the Secretary of State certifies that Pakistan is making significant gains in pursuing the policies set forth in paragraphs (2), (3), and (4) of section 2129 of the Arms Export Control Act (22 U.S.C. 2751 et seq.); and

(2) the President submits a report to the appropriate congressional committees in accordance with subsection (b).
the appropriate congressional committees by the Secretary of State, after consultation with the Secretary of Defense and the Director of National Intelligence, that the security interests of the United States should:

(1) recognize the bold political steps the Pakistani government has taken during a time of heightened sensitivity and tension in 2007 and 2008 to elect a new civilian government;

(2) seize this strategic opportunity in the interests of the national security interests of the United States to expand its engagement with the Government and people of Pakistan in areas of particular interest and importance to the people of Pakistan; and

(3) continue to build a responsible and reciprocal security relationship taking into account the requirements of section 2304 of title 10, United States Code, and the Federal Acquisition Regulation.

(b) REQUIREMENT.—Except as provided in paragraph (3), no contract or cooperative agreement under subsection (a) is to be awarded unless applications for such contract or cooperative agreement are received from the Secretary of Defense which demonstrate that such contract or cooperative agreement is consistent with the requirements of section 2304 of title 10, United States Code, and the Federal Acquisition Regulation.

(c) AGREEMENT TO ISSUE WAIVER.—If the Secretary determines that the new program or project includes a provision of law or a directive that is inconsistent with the requirements of section 2304 of title 10, United States Code, and the Federal Acquisition Regulation, the Secretary may enter into a written agreement with the Secretary of Defense to issue such waiver and the reasons for the waiver to the appropriate congressional committees.

SEC. 1248. AFGHANISTAN-PAKISTAN BORDER STRATEGY.

(a) DEVELOPMENT OF COMPREHENSIVE STRATEGY.—The Secretary of State, in consultation with the Secretary of Defense, the Director of National Intelligence, and such other government officials as may be appropriate, shall develop a comprehensive, cross-border strategy to counter terrorism in Pakistan effectively ensuring the intended purpose of Coalition Support Funds, and to avoid redundancy in other security assistance programs, including the military construction, military personnel, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 360, after line 20, add the following:

Subtitle F—Child Soldiers Prevention

SEC. 1241. SHORT TITLE.

This subtitle may be cited as the “Child Soldiers Prevention Act of 2008”.

SEC. 1242. DEFINITIONS.

In this subtitle:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ‘‘appropriate congressional committees’’ means—

(A) the Committee on Foreign Relations of the Senate;

(B) the Committee on Appropriations of the Senate;

(C) the Committee on Foreign Affairs of the House of Representatives; and

(D) the Committee on Appropriations of the House of Representatives.

(2) CHILD SOLDIER.—Consistent with the provisions of the Optional Protocol to the Convention of the Rights of the Child, the term ‘‘child soldier’’ means—

(A) any person under 18 years of age who takes a direct part in hostilities as a member of governmental armed forces; or

(B) any person under 18 years of age who has been compulsorily recruited into governmental armed forces; or

(C) any person under 18 years of age who has been voluntarily recruited into governmental armed forces; or

(D) any person under 18 years of age who has been recruited or used in hostilities by armed forces distinct from the armed forces of a state; and

(E) includes any person described in clauses (ii), (iii), or (iv) of subparagraph (A) who is serving in any capacity, including in a support role such as a cook, porter, messenger, medic, guard, or sex slave.

SEC. 1243. PROHIBITION.

(a) IN GENERAL.—Subject to subsections (b), (c), and (e), none of the funds appropriated or otherwise made available for international military education and training, foreign military financing, or the transfer of excess defense articles under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321), the Arms Export Control Act
SEC. 1244. REPORTS.
(a) INVESTIGATION OF ALLEGATIONS REGARDING CHILD SOLDIERS.—United States missions abroad shall thoroughly investigate reports of the use of child soldiers.
(b) INFORMATION FOR ANNUAL HUMAN RIGHTS REPORTS.—In preparing those portions of the annual Human Rights Report that relate to child soldiers under sections 116 and 502B of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n (f) and 2304(h)), the Secretary of State shall ensure that such reports:

(1) trends toward improvement in such country of the status of child soldiers or the continued or increased tolerance of such practices; and

(2) the role of the government of such country in engaging in or tolerating the use of child soldiers.

(c) ANNUAL REPORT TO CONGRESS.—If, in any of the 5 years following the date of the enactment of this Act, a country or countries are notified pursuant to section 1243(b)(2) or a waiver is granted pursuant to section 1243(c)(1), the President shall submit a report to the appropriate congressional committees not later than June 15 of the following year that contains:

(1) a list of the countries receiving notification or any violation of the standards under this subtitle;

(2) a list of any waivers or exceptions exercised under this subtitle;

(3) justification for any such waivers and exceptions; and

(4) a description of any assistance provided under this subtitle pursuant to the issuance of such waiver.

SEC. 1245. TRAINING FOR FOREIGN SERVICE OFFICERS.
Section 708 of the Foreign Service Act of 1980 (22 U.S.C. 2671) is amended by adding at the end the following:

“(c) The Secretary of State, with the assistance of other relevant officials, shall establish as part of the standard training program provided for chiefs of mission, deputy chiefs of mission, and other officers of the Service who are or will be involved in the assessment of child soldier use or the drafting of the annual Human Rights Report, instruction on matters related to child soldiers, and the substance of the Child Soldiers Prevention Act of 2008.”

SEC. 1246. EFFECTIVE DATE; APPLICABILITY.
This subtitle, and the amendments made by this subtitle, shall take effect 180 days after the date of the enactment of this Act and shall apply to funds obligated after such effective date.

SA 5605. Mr. DURBIN (for himself and Mr. BROWNBACK) submitted an amendment intended to be proposed to amendment SA 5511 submitted by Mr. DURBIN (for himself and Mr. BROWNBACK) and intended to be proposed to the bill—

SEC. 1241. SHORT TITLE.
This subtitle may be cited as the “Child Soldiers Prevention Act of 2008.”

SEC. 1242. DEFINITIONS.
In this subtitle:
SA 5606. Mr. REID submitted an amendment intended to be proposed to amendment SA 5536 submitted by Mr. GRAHAM (for himself and Mr. LIEBERMAN) and intended to be proposed to the bill S. 3001, authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for national security, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

SEC. 1041. SENSE OF SENATE ON LEGISLATIVE ACTION REGARDING HABEAS CORPUS REVIEWS FOR DETAINEES AT GUANTANAMO BAY, CUBA.

(a) FINDINGS.—The Senate makes the following findings:

(1) Seven years after the terrorist attacks of September 11, 2001, the perpetrators of that heinous deed have yet to be brought to justice.

(2) Policies that circumvent the requirements of the United States Constitution and international treaties to which the United States is a party and that have undermined efforts to bring accused terrorists to justice.

(3) On four occasions, the Supreme Court has held that the Administration’s legal rules for individuals at Guantanamo Bay, Cuba, and elsewhere, causing years of delay and uncertainty:

(A) In Rasul v. Bush, 542 U.S. 466 (2004), the Supreme Court held that the Federal habeas corpus statute applied to detainees held at Guantanamo Bay.

(B) In Hamdan v. Rumsfeld, 542 U.S. 507 (2004), the Supreme Court held that a United States citizen detained as an enemy combatant on United States soil must be provided a meaningful opportunity to challenge the factual basis for his detention.

(C) In Hamdan v. Rumsfeld, 548 U.S. 557 (2006), the Supreme Court held that the military commissions established by the Administration violated the Uniform Code of Military Justice and the Geneva Conventions.

(D) Most recently, in Boumediene v. Bush, 128 S. Ct. 2229 (2008), the Supreme Court held unconstitutional relevant provisions of the Military Commissions Act of 2006 (Public Law 109-366), finding that the detainees at Guantanamo Bay, Cuba, lack access to a legal forum to challenge the legality of their detention under the United States Constitution.

(E) It is important that Congress act to enhance the rights of habeas corpus petitioners held at Guantanamo Bay. A new President should be afforded an opportunity to review existing policy and make recommendations to Congress as he considers necessary and appropriate.

(b) SENSE OF SENATE.—It is the sense of the Senate that:

(1) Congress should enact legislation to address these complex matters, as necessary, only after careful and responsible deliberation.

(2) A hasty legislative response to the Boumediene v. Bush decision would unduly complicate pending litigation and could disrupt our national security efforts.

(3) As a matter of law, the Supreme Court has already ruled that the United States government must provide a meaningful opportunity to challenge the legality of the detention at Guantanamo Bay.

(4) It is important that Congress act to enhance the rights of habeas corpus petitioners held at Guantanamo Bay.

(5) The new President should conduct a comprehensive review of anti-terror detention policies and should make recommendations to Congress during his first 90 days in office for such legislation as he considers necessary to carry out an effective strategy for preventing terrorism and bringing alleged terrorists to justice.

SA 5607. Mr. NELSON of Florida submitted an amendment intended to be
proposed to amendment SA 5536 submitted by Mr. Sessions for himself, Mr. Nelson of Nebraska, Mr. Lieberman, Mr. Kyl, Mr. Inhofe, Mr. Graham, Mr. Vitter, Mr. Brownback, and Mr. Chambliss) and intended to be proposed to the bill S. 3001, to authorize appropriations for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes, which was ordered to lie on the table; as follows: In lieu of the matter proposed to be inserted, insert the following:

SEC. 587. PROCEDURES FOR COLLECTION AND DELIVERY OF MARKED ABSENTEE BALLOTS OF ABSENTEE OVERSEAS UNIFORMED SERVICES VOTERS.

(a) Procedures.—

(1) In general.—The Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973f et seq.) is amended by inserting after section 103 the following new section:

"SEC. 103A. PROCEDURES FOR COLLECTION AND DELIVERY OF MARKED ABSENTEE BALLOTS OF ABSENTEE OVERSEAS UNIFORMED SERVICES VOTERS.

"(a) Collection.—A Presidential designee shall establish procedures for collecting marked absentee ballots of absent overseas uniformed services voters in regularly scheduled general elections for Federal office, including absentee ballots prepared by States and Federal write-in absentee ballots prescribed under section 103, and for delivering the ballots to the appropriate election officials.

"(b) Ensuring Delivery Prior to Closing of Polls.—

"(1) In general.—Under the procedures established under this section, the Presidential designee shall ensure that any marked absentee ballot to be included under paragraph (3) shall be delivered to the appropriate election official in a State prior to the time established by the State for the closing of the polls on the date of the election.

"(2) Contract with express mail providers.—

"(A) In general.—The Presidential designee shall enter into agreement with one or more providers of express mail services who wishes to use the procedures established under this section and whose marked absentee ballot is required by the appropriate election official to be delivered by the State for the closing of the polls on the date of the election.

"(B) Special rule for voters in jurisdictions using post office boxes for collection of marked absentee ballots.—In the case of an absent uniformed services voter who wishes to use the procedures established under this section and whose marked absentee ballot is required by the appropriate election official to be delivered by the State for the closing of the polls on the date of the election, the Presidential designee shall enter into agreement with the United States Postal Service for the delivery of the absentee ballot under the procedures established under this section.

"(3) Deadline described.—

"(A) In general.—Except as provided in subparagraph (B), the deadline described in paragraph (1) with respect to a particular location that the ballot is collected is noon (in the location in which the ballot is collected) on the last Tuesday that precedes the date of the election.

"(B) Authority to establish alternative deadline for certain locations.—If the Presidential designee determines that the deadline described in paragraph (1) is not sufficient to ensure timely delivery of the ballot under paragraph (1) with respect to a particular location because of remoteness or other factors, the Presidential designee may establish an alternative deadline for any individual whose ballot is required by the appropriate election official to be delivered by the State other than through delivery by the United States Postal Service.

"(C) Tracking mechanism.—Under the procedures established under this section, the entity responsible for delivering marked absentee ballots to the appropriate election officials shall implement procedures to enable an individual whose ballot for a regularly scheduled general election for Federal office is collected by the Presidential designee to determine whether the ballot has been delivered to the appropriate election official, using the Internet, an automated telephone system, or such other methods as the entity may provide.

"(D) Absent overseas uniformed services voter defined.—In this section, the term 'absent overseas uniformed services voter' means an overseas voter described in section 103A.

"(E) Authorization of Appropriations.—There are authorized to be appropriated to the Presidential designee such sums as may be necessary to carry out the requirements of this section.

"(2) Effective date.—Section 103A of the Uniformed and Overseas Citizens Absentee
Voting Act, as added by this subsection, shall apply with respect to the regularly scheduled general election for Federal office held on or after—

(A) November 6, 2008; or

(B) if the Presidential designee determines that such date is not feasible, a date determined feasible by the Presidential designee (but not later than November 2008).

(b) CONFORMING AMENDMENTS.—

(1) FEDERAL RESPONSIBILITIES.—Section 101(b) of such Act (42 U.S.C. 1973ff(b)) is amended by striking ‘‘and’’ at the end of paragraph (1);

(2) by striking the period at the end of paragraph (7) and inserting ‘‘; and’’; and

(c) by adding at the end the following new paragraph:

‘‘(8) carry out section 103A, with respect to the collection and delivery of marked absentee ballots of absentee voters, with respect to the collection and delivery of marked absentee ballots of absentee voters in elections for Federal office.’’

(2) STATE RESPONSIBILITIES.—Section 102(a) of such Act (42 U.S.C. 1973ff–1(a)) is amended by—

(A) by striking ‘‘and’’ at the end of paragraph (4);

(B) by striking the period at the end of paragraph (5) and inserting ‘‘; and’’; and

(C) by adding at the end the following new paragraph:

‘‘(6) carry out section 103A(b)(2) with respect to the processing and acceptance of marked absentee ballots of absentee voters.’’

(c) OUTREACH FOR ABSENT OVERSEAS UNIFORMED SERVICES VOTERS ON PROCEDURES.—The Presidential designee shall take appropriate actions to inform individuals who are anticipated to be absent overseas uniformed services voters in the regularly scheduled general Federal elections held in November 2008 of the procedures for the collection and delivery of marked absentee ballots established pursuant to section 103A of the Uniformed and Overseas Citizens Absentee Voting Act, as added by subsection (a), including the manner in which such voters may utilize such procedures for the submission of marked absentee ballots in regularly scheduled elections for Federal office.

(d) REPORTS ON UTILIZATION OF PROCEDURES.—

(1) REPORTS REQUIRED.—Not later than 180 days after each regularly scheduled general election for Federal office held on or before January 1, 2009, the Presidential designee shall submit to the congressional defense committees a report on the utilization of the procedures for the collection and delivery of marked absentee ballots established pursuant to section 103A of the Uniformed and Overseas Citizens Absentee Voting Act, as so added, during such general election.

(2) ELEMENTS.—Each report under paragraph (1) shall include, for the general election covered by such report, a description of the utilization of such procedures during that paragraph during such general election, including the number of marked absentee ballots collected and delivered under such procedures.

(e) REPORT ON STATUS OF IMPLEMENTATION.—

(1) REPORT REQUIRED.—Not later than one year after the date of the enactment of this Act, the Presidential designee shall submit to the congressional defense committees a report on the status of the implementation of the program for the collection and delivery of marked absentee ballots established pursuant to section 103A of the Uniformed and Overseas Citizens Absentee Voting Act, as so added.

(2) ELEMENTS.—The report under paragraph (1) shall include a status of the implementation of the program and a detailed description of the specific steps taken towards its implementation for November 2008, November 2009, and November 2010.

(2) DEFINITIONS.—

(1) term ‘‘absent overseas uniformed services voter’’ has the meaning given that term in section 103A(d) of the Uniformed and Overseas Citizens Absentee Voting Act, as added by subsection (a).

(2) term ‘‘Presidential designee’’ means the official designated under section 103A of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff(a)).

SEC. 588. PROHIBITION ON REFUSAL TO ACCEPT VOTER REGISTRATION AND ABSENTEE BALLOT APPLICATIONS AND FEDERAL WRITE-IN ABSENTEE BALLOTS FOR FAILURE TO MEET NON-ESSENTIAL REQUIREMENTS.

(a) VOTER REGISTRATION AND ABSENTEE BALLOT APPLICATIONS.—Section 102(b) of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–1) is amended by adding at the end the following new section:

‘‘(e) Prohibiting Refusal To Accept Applications For Failure To Meet Nonessential Requirements.—A State shall not accept and process any otherwise valid voter registration and absentee ballot application (including the official post card form prescribed under section 101) submitted in any manner by an absent uniformed services voter or overseas voter that contains the information required on the official post card form prescribed under section 101 (other than information which the Presidential designee, in consultation with the Election Assistance Commission and the Election Assistance Commission Board of Advisors under section 214(a)(1)–(16), determines, under regulations promulgated by the Presidential designee, is not clearly necessary to prevent fraud in the conduct of elections).’’

(b) FEDERAL WRITE-IN ABSENTEE BALLOT.—Section 101 of such Act (42 U.S.C. 1973ff–2) is amended—

(1) by redesignating subsection (f) as subsection (g);

(2) by inserting after subsection (e) the following new subsection:

‘‘(f) Prohibiting Refusal To Accept Ballot For Failure To Meet Nonessential Requirements.—A State shall not accept and process any otherwise valid Federal write-in absentee ballot submitted in any manner by an absent uniformed services voter or overseas voter that contains the information required to be submitted with such ballot by the Presidential designee (other than information which the Presidential designee, in consultation with the Election Assistance Commission and the Election Assistance Commission Board of Advisors under section 214(a)(1)–(16), determines, under regulations promulgated by the Presidential designee, is not clearly necessary to prevent fraud in the conduct of elections).’’

(c) CONSIDERATION.—

To the extent provided in appropriations Acts, amounts deposited into the Federal Buildings Fund established under section 592 of title 40, United States Code.

(d) FILING OF INSTRUMENTS TO EXECUTE RELEASE.—The Administrator shall execute and file the appropriate deed of release, amended deed, or other appropriate instrument effectuating the release under subsection (a).

SEC. 2823. KOOCHIICHING COUNTY, MINNESOTA.

(a) CONVEYANCE AUTHORIZED.—Subject to the requirements of this section, the Administrator of General Services shall convey to Koochiching County, Minnesota, the parcel of Federal real property described in subsection (b), including any improvements thereon.

(b) PROPERTY DESCRIPTION.—The parcel of real property referred to in subsection (a) is the approximately 5.84 acre parcel located at 1801 3rd Avenue in International Falls, Minnesota, which is the former site of the Koochiching Army Reserve Training Center.

(c) QUIET CLAIM DEED.—The conveyance of real property under subsection (a) shall be made through a quit claim deed.

(d) CONSIDERATION.—

(1) IN GENERAL.—Koochiching County shall pay to the Administrator $30,000 as consideration for a conveyance of real property under subsection (a).

(2) DEPOSIT OF PROCEEDS.—The Administrator shall deposit any funds received under paragraph (1) (less expenses of the conveyance) into a special account in the Treasury established under section 572(b)(5)(A) of title 40, United States Code.

(3) AVAILABILITY OF AMOUNTS DEPOSITED.—To the extent provided in appropriations Acts, amounts deposited into a special account under paragraph (2) shall be available to the Secretary of the Army in accordance with section 592(b) of title 40, United States Code.

(e) REVERSION.—The conveyance of real property under subsection (a) shall be made on the condition that the property will revert to the United States, at the option of the United States, without any obligation for repayment of the purchase price for the property, if the property ceases to be held in public ownership or ceases to be used for a public purpose.

(f) OTHER TERMS AND CONDITIONS.—The conveyance of real property under subsection (a) shall be made subject to such other terms and conditions as the Administrator considers appropriate to protect the interests of the United States.

(g) DEADLINE.—The conveyance of real property under subsection (a) shall be made
not later than 90 days after the date of enactment of this Act.

SA 5610. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle P of title VIII, add the following:

SEC. 854. SMALL ARMS PRODUCTION INDUSTRIAL BASE MATTERS.

(a) AUTHORITY TO MODIFY DEFINITION OF “SMALL ARMS PRODUCTION INDUSTRIAL BASE”.—Section 2473(c) of title 10, United States Code, is amended by inserting before the words “and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:” the following:

(b) REVIEW OF SMALL ARMS PRODUCTION INDUSTRIAL BASE.—Not later than September 30, 2009, the Secretary of Defense shall review and determine, based upon manufacturing capability and capacity—

(1) whether any firms included in the small arms production industrial base shall be eliminated or modified and whether any additional firms should be included; and

(2) whether any of the small arms listed in section 2473(f) of title 10, United States Code, should be eliminated from the list or modified on the list, and whether any additional small arms should be included in the list.

SA 5611. Ms. COLLINS (for herself and Mr. LIEBERMAN) submitted an amendment intended to be proposed by her to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 812 and insert the following:

SEC. 812. CONTINGENCY CONTRACTING CORPS.

(a) In General.—The Office of Federal Procurement Policy Act (41 U.S.C. 653 et seq.) is amended by adding at the end the Following new section:

**SEC. 44. CONTINGENCY CONTRACTING CORPS.**

(a) Establishment.—The Administrator shall establish a pilot program that creates a government-wide Contingency Contracting Corps (in this section, referred to as the ‘Corps’). The members of the Corps shall be available for deployment in responding to disasters, natural and man-made, and contingency operations both within and outside the continental United States. The Administrator, in coordination with the Secretary of Defense, the Secretary of Homeland Security, and the Secretary of State, shall provide an assessment of the pilot program established by this section and make any recommendations relating to continuation or modification of the Corps.

(b) Content.—At a minimum, the report required by subparagraph (A) shall include, disaggregated by year and in summary, the number of members of the Corps, training accomplished, equipment provided, the fully burdened cost of operating the program, the number of deployments of members of the program, and the performance of members of the program in deployment.

(2) Pilot program report.—

A. In general.—Not later than four years after the concept of operations required by subsection (b) is provided to the appropriate congressional committees, the Administrator, in coordination with the Secretary of Defense, the Secretary of Homeland Security, and the Secretary of State, shall provide an assessment of the pilot program established by this section and make any recommendations relating to continuation or modification of the Corps.

B. Content.—At a minimum, the report required by subparagraph (A) shall include, disaggregated by year and in summary, the number of members of the Corps, training accomplished, equipment provided, the fully burdened cost of operating the program, any operations for which the Corps was deployed, an assessment of the effectiveness of the command and control structure for the Corps, the number of deployed members of the Corps with other agencies (both at the members’ parent agencies and while deployed), and the performance of members of the Corps during any deployments.

C. Effective dates.—

1. In general.—Subject to paragraphs (2) and (3), this section shall take effect upon the date of the enactment of the National Defense Authorization Act for Fiscal Year 2009.

2. Establishment and deployment of corps.—The Administrator may not establish or deploy the Corps until the concept of operations required by subsection (b) has been submitted to the appropriate congressional committees.

3. Pilot program termination.—

SA 5612. Mr. KERRY submitted an amendment intended to be proposed to amendment SA 5593 submitted by Mr. KERRY (for himself and Mr. SMITH) and intended to be proposed to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

**SEC. 4. SENSE OF THE SENATE.**

It is the sense of the Senate that—

(1) irrespective of the origins of the recent conflict in Georgia, the disproportionate military response by the Russian Federation on the sovereign, internationally recognized territory of Georgia, and South Ossetia; and

(2) the actions undertaken by the Government of the Russian Federation in Georgia have diminished its standing in the international community and should lead to a review of existing, developing, and proposed military and bilateral arrangements.

(3) the United States continues to have interests in common with the Russian Federation, including combating the proliferation of weapons of mass destruction, terrorism, and these interests can, over time, serve as the basis for improved long-term relations.

(4) the Government of the Russian Federation should immediately comply with the August 12, 2008 cease-fire agreement negotiated on August 12, 2008; and

(5) the Government of the Russian Federation and the Government of Georgia should—

A. refrain from the future use of force to resolve the status of Abkhazia and South Ossetia;

B. work with the United States, Europe, and other concerned countries and through...
the United Nations Security Council, the Organization for Security and Cooperation in Europe, and other international fora to identify a political settlement that addresses the short-term and long-term status of Abkhazia and South Ossetia, in accordance with prior United Nations Security Council resolutions; (6) the United States should—
(A) support the humanitarian and economic assistance to Georgia;
(B) seek to improve commercial relations with Georgia; and
(C) working in tandem with the international community, continue to support the development of a strong, vibrant, multiparty democracy in Georgia;
(7) the President should consult with Congress on future security cooperation and assistance to Georgia, as appropriate;
(b) the United States continues to support the North Atlantic Treaty Organization declaration reached at the Bucharest Summit on April 3, 2008; and
(9) the United States should work with the European Union, Georgia, and its neighbors to ensure the free flow of energy to Europe and the operation of key communication and trade routes.

SA 5613. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for the fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

SEC. 2842. WATER CONSERVATION INVESTMENT PROGRAM.

(a) ESTABLISHMENT OF ACCOUNT.—There is hereby established on the books of the Treasury an account to be known as the ‘‘Department of Defense Water Conservation Investment Program Account’’ (in this section referred to as the ‘‘Account’’).
(b) CREDITS TO ACCOUNT.—The Account shall consist of the following:
(1) Amounts appropriated to the Account.
(2) Amounts transferred pursuant to appropriation Act from operations and maintenance or military construction accounts of the Department of Defense.
(c) USE OF FUNDS.—To the extent provided in appropriation Acts, funds in the account may be used—
(1) to carry out construction or other projects authorized by section 2866 of title 10, United States Code; or
(2) to comply with the requirements of Executive Order No. 13423 (January 24, 2007) or any successor Executive Order relating to water conservation.

SA 5614. Mr. LEVIN (for Mr. AKAKA) proposed an amendment to the bill S. 3002, to authorize for the fiscal year 2007 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

SEC. 7253 is amended by adding at the end the following:

‘‘(1) ADDITIONAL TEMPORARY EXPANSION OF COURT.—(1) Subject to paragraph (2), effective as of December 31, 2009, the authorized number of judges of the Court specified in subsection (a) is increased by two.

‘‘(2) Effective as of January 1, 2013, an appointment to the Court if the appointment would result in there being more judges of the Court than the authorized number of judges of the Court specified in subsection (a) is increased by two.

‘‘On page 47, between lines 20 and 21, insert the following:

‘‘(15) An assessment of the workload of each judge of the Court, including consideration of the following:

(A) The time required of each judge for disposition of each type of case.

(B) The number of cases reviewed by the Court.

(C) The average workload of other Federal judges.

SA 5615. Mr. SANDERS submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

SEC. 401. TEMPORARY INCREASE IN NUMBER OF MILITARY PERSONNEL STRENGTHS FOR FISCAL YEAR 2009.

On page 47, between lines 13 and 14, insert the following:

SEC. 1083. COMMERCIALIZATION PILOT PROGRAM.

Section 108(y) of the Small Business Act (15 U.S.C. 364(y)) is amended—
(1) in paragraph (1)—
(A) by inserting ‘‘or Small Business Technology Transfer Program’’ after ‘‘Small Business Innovation Research Program’’;
(2) by adding at the end the following:

‘‘(a) The authority to create and administer a Commercialization Pilot Program under this subsection may not be construed to eliminate or replace any other SBIR program or STTR program that enhances the insertion or transition of SBIR or STTR technologies, including any such program in effect on the date of enactment of the National Defense Authorization Act for Fiscal Year 2009 (Public Law 110-163; 119 Stat. 3135).’’;

(2) in paragraph (2), by inserting ‘‘or Small Business Technology Transfer Program’’ after ‘‘Small Business Innovation Research Program’’;

(3) by redesigning paragraphs (5) and (6) as paragraphs (7) and (8), respectively;
(4) by inserting after paragraph (4) the following:

‘‘(b) INSPECTION INCENTIVES.—For any contract with a value of not less than $100,000,000, the Secretary of Defense is authorized to—
(A) establish goals for transitioning Phase II technologies in subcontracting plans; and
(B) require a prime contractor on such a contract to report the number and dollar amount of contracts entered into by that prime contractor for Phase III SBIR or STTR projects.

‘‘(c) GOAL FOR SBIR AND STTR TECHNOLOGY INSERTION.—The Secretary of Defense shall—
(A) set a goal to increase the number of Phase II SBIR contracts and the number of Phase II STTR contracts awarded by that Secretary that lead to technology transition into programs of record or fielded systems;

(B) use incentives in effect on the date of enactment of the National Defense Authorization Act for Fiscal Year 2009, or create new incentives, to encourage agency program managers and prime contractors to meet the goal under subparagraph (A); and

(C) include in the annual report to Congress the percentage of contracts described in subparagraph (A) that are performed by the Secretary, which shall include information on the ongoing status of projects funded through the Commercialization Pilot Program and efforts to transfer the technologies into programs of record or fielded systems.’’; and
(5) in paragraph (8), as so redesignated, by striking “fiscal year 2009” and inserting “fiscal year 2014”.

SA 5617. Mr. KERRY (for himself and Ms. SNOWE) submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 311, between lines 13 and 14, insert the following:

SEC. 1081. SMALL HIGH-TECH FIRMS.

(a) SBIR.—Section 9(m) of the Small Business Act (15 U.S.C. 638(m)) is amended by striking “2008” and inserting “2010”.

(b) STTR.—Section 9(n)(1)(A) of the Small Business Act (15 U.S.C. 638(n)(1)(A)) is amended by striking “2008” and inserting “2011”.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Senate Committee on Energy and Natural Resources. The hearing will be held on Tuesday, September 23, 2008, at 10 a.m., in room SD–366 of the Dirksen Senate Office Building.

The purpose of this hearing is to examine why diesel fuel prices have been so high, and what can be done to address the situation.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record may do so by sending it to the Committee on Energy and Natural Resources, United States Senate, Washington, D.C. 20510–6150, or by e-mail to Rosemarie Calabro@energy.senate.gov.

For further information, please contact Tara Billingsley at (202) 224–4756 or Rosemarie Calabro at (202) 224–5089.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on Tuesday, September 16, 2008, at 10 a.m., in room 253V the Russell Senate Office Building.

In this hearing, the Committee will receive testimony regarding the consumer benefits of broadband service in areas such as education, job opportunities, telemedicine, and access to government resources.

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

PRIVILEGES OF THE FLOOR

Ms. CANTWELL. Mr. President, I ask unanimous consent that Nora Adkins, a detail to the Committee on Homeland Security and Governmental Affairs, be granted the privilege of the floor for the remainder of the second session of the 110th Congress.

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

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that Jerry Acosta, a military fellow in my office, be granted the privilege of the floor for the remainder of the Senate’s consideration of S. 3001.

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

LIBRARY OF CONGRESS SOUND RECORDING AND FILM PRESERVATION PROGRAMS REAUTHORIZATION ACT OF 2008

Mr. LEVIN. Mr. President, I ask unanimous consent that the Rules Committee be discharged from further consideration of H.R. 5893 and the Senate proceed to its immediate consideration.

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

The clerk will report the bill by title. The legislative clerk read as follows:

A bill (H.R. 5893) to reauthorize the sound recording and film preservation programs of the Library of Congress, and for other purposes.

The bill being no objection, the Senate proceeded to consider the bill.

Mr. LEVIN. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the bill be printed in the RECORD.

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

The bill (H.R. 5893) was ordered to a third reading, was read the third time, and passed.

DISTRICT OF COLUMBIA AMENDMENT ACT, 2008

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 900, H.R. 5551.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 5551) to amend title 11, District of Columbia Official Code, to implement the increase provided under the District of Columbia Appropriations Act, 2008, in the amount of funds made available for the compensation of attorneys representing indigent defendants in the District of Columbia courts, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. LEVIN. Mr. President, I ask unanimous consent that the bill be read three times and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the bill be printed in the RECORD.

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

The bill (H.R. 5551) was ordered to a third reading, was read the third time, and passed.

VETERANS’ BENEFITS IMPROVEMENT ACT OF 2008

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate
TITLE III—LABOR AND EDUCATION MATTERS

Subtitle A—Labor and Employment Matters

Sec. 301. Waiver of 24-month limitation on program of independent living services and assistance for veterans with a severe disability incurred in the Post-9/11 Global Operations period.

Sec. 302. Reform of USERRA complaint process.

Sec. 303. Modification and expansion of reporting requirements with respect to enforcement of USERRA.

Sec. 304. Training of veteran branch human resources personnel on employment and reemployment rights of members of the uniformed services.

Sec. 305. Report on the employment needs of Native American veterans living on tribal lands.

Sec. 306. Report on measures to assist and encourage veterans in completing vocational rehabilitation.

Subtitle B—Education Matters

Sec. 311. Relief for students who discontinue education because of military service.

Sec. 312. Modification of period of eligibility for Servicemembers’ and Dependents’ Educational Assistance of certain spouses of individuals with service-connected disabilities total and permanent in nature.

Sec. 313. Report of requirement for report to the Secretary of Veterans Affairs on prior training.

Sec. 314. Modification of waiting period before affirmation of enrollment in a course in a correspondence course.

Sec. 315. Change of programs of education at the same educational institution.

Sec. 316. Repeal of certification requirement with respect to applications for approval of self-employment on-job training.

Subtitle C—Other Matters

Sec. 321. Designation of the Office of Small Business Programs of the Department of Veterans Affairs.

TITLE IV—COURT MATTERS

Sec. 401. Increase in number of active judges on the United States Court of Appeals for Veterans Claims.

Sec. 402. Protection of privacy and security concerns in court records.

Sec. 403. Recall of additional judges of the United States Court of Appeals for Veterans Claims.

Sec. 404. Annual report on workload of the United States Court of Appeals for Veterans Claims.

TITLE V—INSURANCE MATTERS

Sec. 501. Increase in numbers of active judges on the United States Court of Appeals for Veterans Claims.

Sec. 502. Treatment of survivors as insured under Servicemembers’ Group Life Insurance.

Sec. 503. Other enhancements of Servicemembers’ Group Life Insurance coverage.

TITLE VI—OTHER MATTERS

Sec. 601. Authority for suspension or termination of claims of the United States against individuals who died while serving on active duty in the Armed Forces.

Sec. 602. Memorial certificates and markers for deceased remarried surviving spouses of veterans.

Sec. 603. Three-year extension of authority to carry out income verification.

Sec. 604. Three-year extension of temporary authority for the performance of medical disability determinations by contract physicians.

SUBTITLE A—LABOR AND EDUCATION MATTERS

Sec. 301. Waiver of 24-month limitation on program of independent living services and assistance for veterans with a severe disability incurred in the Post-9/11 Global Operations period.

Sec. 302. Reform of USERRA complaint process.

Sec. 303. Modification and expansion of reporting requirements with respect to enforcement of USERRA.

Sec. 304. Training of veteran branch human resources personnel on employment and reemployment rights of members of the uniformed services.

Sec. 305. Report on the employment needs of Native American veterans living on tribal lands.

Sec. 306. Report on measures to assist and encourage veterans in completing vocational rehabilitation.

Sec. 311. Relief for students who discontinue education because of military service.

Sec. 312. Modification of period of eligibility for Servicemembers’ and Dependents’ Educational Assistance of certain spouses of individuals with service-connected disabilities total and permanent in nature.

Sec. 313. Report of requirement for report to the Secretary of Veterans Affairs on prior training.

Sec. 314. Modification of waiting period before affirmation of enrollment in a course in a correspondence course.

Sec. 315. Change of programs of education at the same educational institution.

Sec. 316. Repeal of certification requirement with respect to applications for approval of self-employment on-job training.

Sec. 321. Designation of the Office of Small Business Programs of the Department of Veterans Affairs.

Sec. 401. Increase in number of active judges on the United States Court of Appeals for Veterans Claims.

Sec. 402. Protection of privacy and security concerns in court records.

Sec. 403. Recall of additional judges of the United States Court of Appeals for Veterans Claims.

Sec. 404. Annual report on workload of the United States Court of Appeals for Veterans Claims.

Sec. 501. Increase in numbers of active judges on the United States Court of Appeals for Veterans Claims.

Sec. 502. Treatment of survivors as insured under Servicemembers’ Group Life Insurance.

Sec. 503. Other enhancements of Servicemembers’ Group Life Insurance coverage.

Sec. 601. Authority for suspension or termination of claims of the United States against individuals who died while serving on active duty in the Armed Forces.

Sec. 602. Memorial certificates and markers for deceased remarried surviving spouses of veterans.

Sec. 603. Three-year extension of authority to carry out income verification.

Sec. 604. Three-year extension of temporary authority for the performance of medical disability determinations by contract physicians.
(C) CLOTHING ALLOWANCE.—The dollar amount in effect under section 1162 of this title.

(D) NEW DIC RATES.—Each of the dollar amounts in effect under paragraphs (1) and (2) of section 1311(a)(3) of this title.

(E) OLD DIC RATES.—Each of the dollar amounts in effect under section 1311(a)(3) of this title.

(F) ADDITIONAL DIC FOR SURVIVING SPOUSES WITH MINOR CHILDREN.—The dollar amount in effect under section 1311(b) of this title.

(G) DIC FOR DISABLED CHILDREN.—Each of the dollar amounts in effect under sections 1311(c) and 1311(d) of this title.

(H) DIC FOR DEPENDENT CHILDREN.—Each of the dollar amounts in effect under sections 1313(a) and 1314 of this title.

(3) Whenever there is an increase under paragraph (1) in amounts in effect for the payment of disability compensation and dependency and indemnity compensation, the Secretary shall publish such amounts, as increased pursuant to such paragraph, in the Federal Register at the same time as the material required by section 215(c)(2)(D) of the Social Security Act (42 U.S.C. 415(c)(2)(D)) is published by reason of a determination under section 215(c) of such Act (42 U.S.C. 415(c)).

(b) EFFECTIVE DATE.—Subsection (d) of section 5312 of title 38, United States Code, as added by subsection (a) of this section, shall take effect on December 21, 2008.

SEC. 104. CONFORMING AMENDMENT RELATING TO NON-DEDUCTIBILITY FROM VETERANS' BENEFITS OF DISABILITY SEVERANCE PAY FOR DISPABILITIES INCURRED BY MEMBERS OF THE ARMED FORCES IN COMBAT ZONES.

(a) CONFORMING AMENDMENT.—Section 1646 of the Wounded Warrior Act (title XVI of Public Law 110-412, 122 Stat. 472) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection (c):

"(c) CONFORMING AMENDMENT.—Section 1646 of title 38, United States Code, is amended by striking 'as required by section 1212(c) of title 10' and inserting 'to the extent required by section 1212(d) of title 10'."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on January 28, 2008 (the date of the enactment of the Wounded Warrior Act), as if included in that Act, to which they relate.

SEC. 105. REPORT ON PROGRESS OF THE SECRETARY OF VETERANS AFFAIRS IN ADDRESSING CAUSES FOR VARIOUS LOW INCOME COMPENSATION EMBARGOS FOR VETERANS FOR SERVICE-CONNECTED DISABILITIES.

(a) REPORT REQUIRED.—Not later than one year after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a report describing the progress of the Secretary in addressing the causes of unacceptable variances in compensation payments for veterans for service-connected disabilities.

(b) ELEMENTS.—The report required under subsection (a) shall include the following:

(1) A general assessment of the overall level of funding for the Veterans Health Administration.

(2) A description of the progress of the Veterans Health Administration to coordinate with the Veterans Health Administration to improve the quality of examinations of veterans with service-connected disabilities performed by the Veterans Health Administration and contract clinicians, including efforts relating to the use of approved templates for such examinations and the examinations that are based on such templates prepared in an easily-readable format.

(3) An assessment of the current personnel requirements of the Veterans Health Administration, including an assessment of the adequacy of the number of personnel assigned to each regional office of the Administration for each type of claim adjudication position.

(4) A description of the differences, if any, in current patterns of submittal rates of claims to the Secretary of the Department of Veterans Affairs by service-connected disabilities among various populations of veterans, including veterans living in rural and highly rural areas, minority veterans, veterans who served in the National Guard or Reserve, and veterans who are retired from the Armed Forces, and a description and assessment of efforts undertaken to eliminate such differences.

SEC. 106. REPORT ON STUDIES REGARDING COMPENSATION OF VETERANS FOR LOSS OF EARNINGS AND QUALITY OF LIFE AND ON LONG-TERM TRANSITION PAYMENTS TO VETERANS UNDER PROGRAMS FOR REHABILITATION FOR SERVICE-CONNECTED DISABILITIES.

(a) FINDING.—Congress finds that the Secretary of Veterans Affairs entered into a contract in February 2008 to conduct two studies as follows:

(1) A study on the appropriate levels of disability compensation to be paid to veterans to compensate for loss of earning capacity and quality of life as a result of service-related disabilities.

(2) A study on the feasibility and appropriate level of long-term transition payments to veterans who are separated from the Armed Forces due to disability while such veterans are undergoing rehabilitation for such disability.

(b) REPORT REQUIRED.—

(1) IN GENERAL.—The Secretary of Veterans Affairs shall submit to Congress a report on the effects of mortgage foreclosures on veterans under such title.

(2) EFFECTIVE DATE.—The amendments made by this Act shall take effect on November 11, 2008.

SEC. 207. TEMPORARY INCREASE IN MAXIMUM GUARANTY AMOUNT FOR CERTAIN HOUSING LOANS GUARANTEED BY THE SECRETARY OF VETERANS AFFAIRS.

Notwithstanding subparagraph (C) of section 3703(a)(1) of title 38, United States Code, for purposes of subparagraphs (A)(i) and (A)(ii) of section 3703(a)(1) of title 38, United States Code, if such loan is originated during the period beginning on the date of the enactment of this Act and ending on December 31, 2011, the amount of the guarantee shall mean an amount equal to 25 percent of the limitation determined under such section 3703(a) for the calendar year in which the loan is originated for a single-family residence or

(1) the limitation determined under section 3703(a)(1) of title 38, United States Code, for purposes of subparagraph (A)(ii)(IV) of section 3703(a)(1) of such title that is originated during the period beginning on the date of the enactment of this Act and ending on December 31, 2011, for purposes of subparagraph (A)(ii)(IV) of section 3703(a)(1) of such title shall mean an amount equal to 25 percent of the limitation determined under

(b) LIMITATION.—The Secretary of Veterans Affairs may provide assistance under chapter 21 of title 38, United States Code, to a member of the Armed Forces serving on active duty who is suffering from a disability described in section 2101 of such title if such disability is the result of an injury incurred or disease contracted in line of duty in the active military, naval, or air service. Such assistance shall be provided to the same extent, and subject to the same limitations, as is provided to veterans under such title.
(1) by striking “Unless the Secretary” and all that follows through “the period of a program” and inserting “(1) Except as provided in paragraph (2), the period of a program”; and
(2) by deleting at the end the following new paragraph:
(2)(A) The period of a program of inde-
pendent living services and assistance for a vet-
eran under this chapter may exceed twenty-four months as follows:
(1) If the Secretary determines that a longer period is necessary and likely to result in a sub-
stantial increase in the veteran’s level of inde-
pendence in daily living.
(2) If the veteran served on active duty dur-
ing the Post-9/11 Global Operations period and
has a severe disability (as determined by the Sec-
retary for purposes of this clause) incurred or ag-
gravated as a result of such service.
(3) If any person submitted a complaint before the end of the sixty-day period following the date the Secretary received a complaint submitted by a person under subsection (c), the Secretary shall refer the complaint to the Attorney General.” after “to the
complaint, the Secretary shall refer the com-
plaint to the Attorney General.”

COUNSEL.—Section 4324(a)(1) is amended by in-
serting “Not later than 60 days after the Sec-
retary receives a complaint submitted by a per-
son under subsection (a), the Secretary shall no-
ify such person in writing of his or her rights with respect to such complaint under this sec-
tion and section 4323 or 4324, as the case may be.

SEC. 302. REFORM OF USERRA COMPLAINT PROC-
ESS.
(a) NOTIFICATION OF RIGHTS WITH RESPECT TO COMPLAINTS.—Subsection (c) of section 4322 is amended to read as follows:
(1) Not later than five days after the Sec-
retary receives a complaint submitted by a per-
son under subsection (a), the Secretary shall no-
ify such person in writing of his or her rights
with respect to such complaint under section 4323 or 4324, as the case may be.

(b) NOTIFICATION OF RESULTS OF INVESTIGATION IN WRITING.—Subsection (e) of such section is amended by inserting “in writing” after “sub-
mitted the complaint.”

(c) EXPEDITION OF REFERRALS TO SPECIAL
COUNSEL.—Section 4322 is further amended—
(1) by redesigning subsection (f) as sub-
section (g); and
(2) by inserting after subsection (f) the fol-
lowing new subsection:
“(f) Any action required by subsections (d) and (e) with respect to a complaint submitted by a person under subsection (a) shall be completed by the Secretary not later than 90 days after receipt of such complaint.”.

(d) EXPEDITION OF REFERRALS.—
(1) EXPEDITION OF REFERRALS TO ATTORNEY GENERAL.—Section 4323(a)(1) is amended by in-
serting “Not later than 60 days after the Sec-
retary receives a complaint with respect to a complaint, the Secretary shall refer the com-
plaint to the Attorney General.” after “to the
Attorney General.”

(2) EXPEDITION OF REFERRALS TO SPECIAL
counsel.—Section 4324(a)(1) is amended by strik-
ing “The Secretary shall refer” and in-
serting “Not later than 60 days after the date the Secretary receives such a request, the Secretary shall refer”.

(e) NOTIFICATION OF REPRESENTATION.—
(1) NOTIFICATION BY ATTORNEY GENERAL.—
Section 4323(a) is further amended—
(A) by redesigning paragraph (2) as para-
graph (3); and
(B) by inserting after paragraph (1) the fol-
lowing new paragraph:
(2) Not later than 60 days after the date the Attorney General receives a referral under para-
graph (1), the Attorney General shall—
(A) make a decision whether to appear on behalf of, and act as attorney for, the person on whose complaint is submitted; and
(B) notify such person in writing of such de-
cision.

(2) NOTIFICATION BY SPECIAL COUNSEL.—Sub-
paragraph (B) of section 4324(a)(2) is amended to read as follows:
“(B) Not later than 60 days after the date the Special Counsel receives a referral under para-
graph (1), the Special Counsel shall—
(i) make a decision whether to represent a person under the Merit Systems Protection Board
under subparagraph (A); and
(ii) notify such person in writing of such de-
cision.”

(3) DEADLINES, STATUTES OF LIMITATIONS, AND
RELATED MATTERS.—
(1) IN GENERAL.—Subchapter III of chapter 43 is amended by adding at the end the following new section:

§4327. Noncompliance of Federal officials with deadlines; inapplicability of statutes of
limitations
(a) EFFECT OF NONCOMPLIANCE OF FEDERAL
OFFICIALS WITH DEADLINES.—(1) The inability of the Secretary, the Attorney General, or the Special Counsel to comply with a deadline applicable to such official under section 4322, 4323, or 4324 of this title—
(A) shall not affect the authority of the At-
torney General or the Special Counsel to rep-
resent and file an action or submit a complaint on behalf of a person under section 4323 or 4324 of this title;
(B) shall not affect the right of a person—
(i) to commence an action under section 4323 of this title;
(ii) to submit a complaint under section 4324 of this title; or
(iii) to obtain any type of assistance or relief
authorized by this chapter;
(C) shall not deprive a Federal court, the Merit Systems Protection Board, or a State court of jurisdiction over an action or complaint filed by the Attorney General, the Special Coun-
cel, or a person under section 4323 or 4324 of this title;
and
(D) shall not constitute a defense, including
a statute of limitations period, that any em-
ployer (including a State, a private employer, or a Federal executive agency or the Office of Per-
sion, or a person under section 4323 or 4324 of this title;
(2) If the Secretary, the Attorney General, or the Special Counsel is unable to meet a deadline applicable to such official in section 4322(1), 4323(a)(1), 4324(a)(1), (2), or 4324(a)(2)(B) of this title, and the person agrees to an exten-
sion of time, the Secretary, the Attorney Gen-
eral, or the Special Counsel, as the case may be, shall complete the required action within the additional period of time agreed to by the per-
son.

(b) INAPPLICABILITY OF STATUTES OF LIMITA-
tions.—(1) Whenever an action seeks to file a complaint or claim with the Secretary, the Merit Systems Protection Board, or a Federal or State court under this chapter alleging a violation of this chapter, there shall be no limit on the period for filing the complaint or claim.

(2) CLERICAL AMENDMENT.—The table of sec-
tions at the beginning of chapter 43 is amended by inserting after the entry relating to section 4326 the following new item:
“4327. Noncompliance of Federal officials with deadlines; inapplicability of statues
of limitations;”.

(3) CONFORMING AMENDMENT.—Section 4323 is
further amended—
(A) by striking subsection (i);
and
(B) by redesigning subsection (i) as sub-
section (i).

SEC. 303. MODIFICATION OF ANNUAL REPORTS BY
SECRETARY.—Such section is further amended—
(1) by striking “The Secretary shall” and in-
serting “(a) ANNUAL REPORT BY SECRETARY.
—The Secretary shall”;
(2) in paragraph (3), by inserting before the end of the paragraph the following:
“and the number of such cases that involve persons with severe disabilities, persons in dif-
ferent occupations, persons in different voca-
tions, and persons holding different positions,”;
(3) by redesigning paragraphs (6) and (7) as para-
graphs (9) and (10), respectively;
(4) by inserting after paragraph (5) the fol-
lowing new paragraph:
(6) With respect to the cases reported on pur-
suant to paragraphs (1), (2), (3), (4), and (5)—
(A) the number of such cases that involve a
disability evaluated as 100 percent disabling;
(B) the number of such cases that involve a
person who has a service-connected disability;”;
and
(7) in paragraph (7), as redesignated by para-
graph (5) of this subsection, by striking “or (4)” and inserting “(4), (5)”.

(3) ADDITIONAL REPORTS.—Such section is futher amended by adding at the end the fol-
lowing new subsection:

(4) QUARTERLY REPORTS.—
(b) QUARTERLY REPORT BY SECRETARY.—Not later than 30 days after the end of each fiscal
quarter, the Secretary shall submit to Congress, the Secretary of Defense, the Attorney General, and the Special Counsel a report setting forth, for the previous full quarter, the following:

(1) The number of cases for which the Sec-
retary did not meet the requirements of section 4322 of this title;

(2) The number of cases for which the Sec-
retary did not complete the required action within the period required by each statute of
limitations; and

(3) The number of cases reviewed by the Sec-
retary and the Secretary of Defense through the National Committee for Employer Support of the Guard and Reserve of the Department of De-
fense, or the Secretary, the Attorney General, or the Special Counsel to rep-
resent a person under section 4323 or 4324 of this title.

(c) TOTAL COMPLAINTS REPORTED TO CONGRESS.—Each calendar year, the Secretary shall submit to Congress, the Secretary of Defense, the Attorney General, and the Special Counsel a report setting forth, for the calendar year, the number of actions initiated by the Office of Special Counsel before the Merit Systems Protection Board pursuant to section 4324 during such fiscal
year.

(d) MODIFICATION OF ANNUAL REPORTS BY SECRETARY.—Such section is further amended—
(1) by striking “The Secretary shall” and in-
serting “(a) ANNUAL REPORT BY SECRETARY.
—The Secretary shall”;
(2) in paragraph (3), by inserting before the end of the paragraph the following:
“and the number of such cases that involve persons with severe disabilities, persons in dif-
ferent occupations, persons in different voca-
tions, and persons holding different positions,”;
(3) by redesigning paragraphs (6) and (7) as para-
graphs (9) and (10), respectively;
(4) by inserting after paragraph (5) the fol-
lowing new paragraph:
(6) With respect to the cases reported on pur-
suant to paragraphs (1), (2), (3), (4), and (5)—
(A) the number of such cases that involve a
disability evaluated as 100 percent disabling;
(B) the number of such cases that involve a
person who has a service-connected disability;”;
and
(7) in paragraph (7), as redesignated by para-
graph (5) of this subsection, by striking “or (4)” and inserting “(4), (5)”.

(e) UNIFORM CATEGORIZATION OF DATA.—Such section is further amended by adding at the end the following:

(1) the information in the reports required by this section is categorized in a uniform way; and
“(2) the Secretary, the Secretary of Defense, the Attorney General, and the Special Counsel each have electronic access to the case files reviewed under this chapter by the Secretary, the Attorney General, the Special Counsel, and the Comptroller General with due regard for the provisions of section 552a of title 5.”.

(e) COMPTROLLER GENERAL REPORT.—Not later than two years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report that contains the following:

(1) an analysis of the reliability of the data contained in the reports submitted under subsection (b) of section 4332 of title 38, United States Code (as amended by subsection (c) of this section), and 

(2) an assessment of the timeliness of the reports submitted under subsection (b) of section 4332 of title 38, United States Code (as so amended), as of such date.

(3) The extent to which the Secretary of Labor is meeting the timeliness requirements of subsection (c)(1) and (f) of section 4332 of title 38, United States Code (as amended by section 302 of this Act), and section 4232(a)(1) of title 38, United States Code (as so amended), as of the date of such report.

(4) The extent to which the Attorney General is meeting the timeliness requirements of section 4232(a)(2) of title 38, United States Code (as amended by section 302 of this Act), as of the date of such report.

(5) The extent to which the Special Counsel is meeting the timeliness requirements of section 4232(a)(2) of title 38, United States Code (as amended by section 302 of this Act), as of the date of such report.

(f) EFFECTIVE DATE.—The amendments made by this section shall be effective as of the date of enactment of this Act.

SEC. 306. REPORT ON MEASURES TO ASSIST AND EMPLOY VETERANS IN COMPLETING VOCATIONAL REHABILITATION.

(a) STUDY REQUIRED.—The Secretary of Veterans Affairs shall conduct a study on measures to assist and encourage veterans in completing vocational rehabilitation. The study shall include an identification of the following:

(1) The various factors that may prevent or preclude veterans from completing their vocational rehabilitation plans through the Department of Veterans Affairs or otherwise achieving the vocational rehabilitation objectives of such plans.

(2) The actions to be taken by the Secretary to assist and encourage veterans in overcoming the factors identified in paragraph (1) and in otherwise completing their vocational rehabilitation plans or achieving the vocational rehabilitation objectives of such plans.

(b) MATTERS TO BE EXAMINED.—In conducting the study required by subsection (a), the Secretary shall examine the following:

(1) Measures utilized in other disability systems in the United States, and in other countries, to encourage completion of vocational rehabilitation by persons covered by such systems.

(2) Any studies or reports available to the Secretary that relates to the matters covered by the study.

(3) The extent to which disability compensation may be used as an incentive to encourage veterans to undergo and complete vocational rehabilitation.


(5) The report of the President’s Commission on Care for America’s Returning Wounded Warriors.

(6) Any other matters that the Secretary considers appropriate for purposes of the study.

(7) CONSIDERATION.—In conducting the study required by subsection (a), the Secretary shall consider—

(1) the extent to which bonus payments or other incentives may be used to encourage veterans to complete their vocational rehabilitation plans or otherwise achieve the vocational rehabilitation objectives of such plans;

(2) any other matters that the Secretary considers appropriate.

(b) IMPLEMENTATION.—In conducting the study required by subsection (a), the Secretary—

(1) shall consult with such veterans and military service organizations, and with such other public and private organizations and individuals, as the Secretary considers appropriate;

(2) may employ consultants.

(c) REPORT.—Not later than 270 days after the commencement of the study required by subsection (a), the Secretary shall submit to the Committee on Veterans’ Affairs of the Senate and the Committee of the House of Representatives a report on the study. The report shall include the following:

(1) The findings of the Secretary under the study.

(2) Any recommendations that the Secretary considers appropriate for actions to be taken by the Secretary in light of the study, including a plan or plans for such legislative action as the Secretary considers appropriate to implement the recommendations.

Subtitle B—Education Matters

SEC. 311. RELIEF FOR STUDENTS WHO DISCONTINUE EDUCATION BECAUSE OF MILITARY SERVICE.

(a) IN GENERAL.—Title VII of the Servicemembers Civil Relief Act (50 U.S.C. App. 591 et seq.) is amended by adding at the end the following new section:

“SEC. 707. TUITION, REENROLLMENT, AND STUDENT LOAN RELIEF FOR POSTSECONDARY STUDENTS CALLED TO MILITARY SERVICE.

“(a) TUITION AND REENROLLMENT.—In the case of a servicemember who because of military service discontinues plans for education at a covered institution of higher education, the institution that administers a Federal financial aid program, such institution of higher education shall—

(1) refund to such servicemember the tuition and fees paid by such servicemember from personal funds, or from a loan, for the portion of the program of education for which such servicemember would have been eligible for academic credit because of such military service; and

(2) provide such servicemember an opportunity to reenroll in such program of education with the same educational and academic status such servicemember had when such servicemember discontinued such program of education because of such military service.

(b) INTEREST RATE LIMITATION ON STUDENT LOANS.—

“(1) IN GENERAL.—Except as provided in paragraph (2) of this subsection, a student loan shall be considered an obligation or liability for the purposes of section 207.

“(2) EXCEPTION.—Subsection (c) of section 207 shall not apply to a student loan.

(c) DEFINITIONS.—In this section:

“(1) The term ‘covered institution of higher education’ means a 2-year or 4-year institution of higher education as defined in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002) that participates in a loan program under title IV of that Act (20 U.S.C. 1076 et seq.).

“(2) The term ‘Federal financial aid program’ means a program providing loans made, insured, or guaranteed under part B, D, or E of title IV of the Higher Education Act of 1965 (20 U.S.C. 1077 et seq., 1087a et seq., 1087aa et seq.).

“(3) The term ‘student loan’ means any loan, whether Federal, State, or private, to assist an individual to attend an institution of higher education, including a loan made, insured, or guaranteed under part B, D, or E of title IV of the Higher Education Act of 1965 (20 U.S.C. 1077 et seq., 1087a et seq., 1087aa et seq.).

“(4) The term ‘loan relief’ means relief under this section.

“(5) The term ‘veteran’ means any person who served in the Armed Forces and who was discharged (or released) for a disability incurred or aggravated in line of duty during a period of military service, and includes a person who is determined under section 4101 of title 38, United States Code, to be so discharged (or released).”.

“(d) HUMAN RESOURCES PERSONNEL—

“§ 4335. Training for Federal executive agency human resources personnel on employment and reemployment rights and limitations

“(a) TRAINING REQUIRED.—Subchapter IV of chapter 43 is amended by adding at the end the following new section:

“§ 4335. Training for Federal executive agency human resources personnel on employment and reemployment rights and limitations

“(a) TRAINING REQUIRED.—The head of each Federal executive agency shall provide training for its human resources personnel of such agency on the following:

“(1) The rights, benefits, and obligations of members of the uniformed services under this chapter.

“(b) CONSULTATION.—The training provided under subsection (a) shall be developed and provided in consultation with the Director of the Office of Personnel Management.

“(c) TRAINING SUBSEQUENTLY PROVIDED.—The training required under subsection (a) shall be provided with such frequency as the Director of the Office of Personnel Management shall specify in order to ensure that the personnel of Federal executive agencies are kept fully and currently informed of the matters covered by the training.

“(d) HUMAN RESOURCES PERSONNEL DEFINED.—In this section, the term ‘human resources personnel’, in the case of a Federal executive agency, means any personnel of the agency who are authorized to recommend, take, or approve any personnel action that is subject to the requirements of this chapter with respect to employees of the agency.

“(e) AMENDMENT.—The table of sections at the beginning of chapter 43 is amended by adding at the end the following new item:

“4335. Training for Federal executive agency human resources personnel on employment and reemployment rights and limitations.”
SECTION 312. MODIFICATION OF PERIOD OF ELIGIBILITY FOR SURVIVORS AND DEPENDENTS OF EDUCATIONAL ASSISTANCE TO CERTAIN SPOUSES OF INDIVIDUALS WITH SERVICE-CONNECTED DISABILITIES TOTAL AND PERMANENT IN NATURE.

Section 3521(2)(D) is amended—
(1) in subparagraph (A), by striking "subparagraph (B) or (C)" and inserting "subparagraph (B) or (C), or (D); and
(2) by adding at the end the following new subparagraph:
"(D) Notwithstanding subparagraph (A), an eligible person referred to in that subparagraph who is made eligible under section 3521(a)(1)(D)(i) of this title by reason of a service-connected disability that was determined to be a total disability permanent in nature not later than three years after discharge from service may be afforded educational assistance under this chapter during the 20-year period beginning on the date the disability was so determined to be a total disability permanent in nature, but only if the eligible person remains the spouse of the disabled person throughout the period."

SECTION 313. REPEAL OF REQUIREMENT FOR REPORT TO THE SECRETARY OF VETERANS AFFAIRS REGARDING SERVICE TO THE UNITED STATES IN A CORRESPONDENCE COURSE.

Section 3676(c)(4) is amended by striking "and inserting "five''.

SECTION 314. MODIFICATION OF WAITING PERIOD FOR RECOGNITION OF Certification for Enrollment in a Correspondence Course.

Section 3686(b) is amended by striking "ten" and inserting "five''.

SECTION 315. CHANGE OF PROGRAMS OF EDUCATION AT THE SAME EDUCATIONAL INSTITUTION.

Section 3691(g) is amended—
(1) by redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively;
(2) by inserting "(1)" after "(d)";
(3) in subparagraph (C) of paragraph (1), as redesignated by paragraphs (1) and (2) of this section, by striking or at the end;
(4) in subparagraph (D) of paragraph (1), as so redesignated, by striking the period at the end and inserting "; or"; and
(5) by adding at the end the following:
"(E) the change from the program in one educational institution or another program is at the same educational institution and such educational institution determines that the new program is suitable to the aptitudes, characteristics, and abilities of the veteran or eligible person and certifies to the Secretary the enrollment of the veteran or eligible person in the new program.
"(2) An eligible person undergoing a change from one program of education to another program of education as described in paragraph (1)(E) shall not be required to apply to the Secretary for approval of such change."

SECTION 316. REPEAL OF CERTIFICATION REQUIREMENT WITH RESPECT TO APPLICANTS FOR VETERANS' BENEFITS THROUGH EMPLOYMENT ON-JOB TRAINING.

Section 3677(b) is amended by adding at the end the following new paragraph:
"(3) The requirement for certification under paragraph (1) shall not apply to training described in section 3452(e)(2) of this title.

Subtitle C—Other Matters

SECTION 321. DESIGNATION OF THE OFFICE OF AFFAIRS PROGRAMS OF THE DEPARTMENT OF VETERANS AFFAIRS.

(a) Designation. The Office of Small Business Programs of the Department of Veterans Affairs is the office that is established within the Office of the Secretary of Veterans Affairs under section 15(k) of the Small Business Act (15 U.S.C. 64 and 6(a) (3)).

(b) Head. The Director of Small Business Programs of the head of the Office of Small Business Programs of the Department of Veterans Affairs.

TITe IV—COURT MATTERS

SECTION 312A. INCREASE IN NUMBER OF ACTIVE JUDGES ON THE UNITED STATES COURTS OF APPEALS FOR VETERANS CLAIMS.

Section 7253(a) is amended by striking "seven judges" and inserting "nine judges'.

SECTION 312B. PROVISIONS RELATING TO VETERANS AFFAIRS MATTERS CONCERNING COURT RECORDS.

Section 7288 is amended by adding at the end the following new paragraph:
"(c)(1) The Court shall prescribe rules, in accordance with section 7286(a) of this title, to protect privacy and security concerns relating to the availability of documents under subsection (a) of this section by subduing of documents retained by the Court or filed electronically with the Court.
"(2) The rules prescribed under paragraph (1) shall be consistent with the extent practicable with rules addressing privacy and security issues throughout the Federal courts.

"(D) The rules prescribed under paragraph (1) shall take into consideration best practices in Federal and State courts to protect private information or otherwise maintain necessary information security.''

SECTION 312C. REPEAL OF CERTIFICATION REQUIREMENT FOR RETIRED PAY OF NEW JUDGES WHO ARE RETIRED ELIGIBLE—Section 7296(b)(3)(A) is amended by striking "paragraph (2) of subsection (c)" and inserting "paragraph (1)(A)(ii) or (3) of subsection (c)'.

"(3) PAY DURING PERIOD OF RETIREMENT—Subsection (d) of section 7257 is amended to read as follows:
"(d)(1) The pay of a recall-eligible retired judge to whom section 7296(c)(1)(B) of this title applies is the pay specified under subsection (b)(3) of section 7257 of this title, as adjusted from time to time under section 2412 of title 28 to disposition by the Court.

"(A) A judge who is recalled under this section who retired under chapter 83 or 84 of title 5 or to whom section 7296(c)(1)(A) of this title applies shall be paid, during the period for which the judge serves in recall status, pay at the rate of pay in effect under section 7253(e) of this title for a judge performing active service, less the amount of the judge's annuity under the applicable provisions of chapter 83 or 84 of title 5 or the judge's annuity under section 7296(c)(1)(A) of this title, whichever is applicable.

"(B) NOTICE.—The last sentence of section 7257(a)(1) is amended to read as follows: "Such a notice provided by a retired judge to whom section 7296(c)(1)(B) of this title applies is irrevocable."

"(c) LIMITATION ON INVOLUNTARY RECALLS.—Section 7297(b)(3) is amended by adding at the end the following new paragraph:
"(4) A judge who is recalled under this section or who has, in the aggregate, served at least five years of recall service on the Court under this section.''

SECTION 312D. ANNUAL REPORTS ON WORKLOAD OF THE UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS.

(a) In general.—Subchapter III of chapter 72 is amended by adding at the end the following new section:
"§7288. Annual report

"(a) In general.—The chief judge of the Court shall submit to the appropriate committees of Congress each year a report summarizing the workload of the Court for the fiscal year ending during the preceding year.

"(b) ELEMENTS.—Each report under section (a) shall include, with respect to the fiscal year covered by such report, the following information:
"(1) The number of appeals filed with the Court.

"(2) The number of petitions filed with the Court.

"(3) The number of applications filed with the Court under section 2412 of title 28.

"(4) The total number of dispositions by each of the following:
"(A) The Court as a whole.

"(B) The Clerk of the Court.

"(C) A single judge of the Court.

"(D) A multi-judge panel of the Court.

"(E) The full Court.

"(5) The number of each type of disposition by the Court, including settlement, affirmation, remand, vacatur, dismissal, reversal, grant, and denial.

"(6) The median time from filing an appeal to disposition by each of the following:
"(A) The Court as a whole.

"(B) The Clerk of the Court.

"(C) A single judge of the Court.

"(D) Multiple judges of the Court (including a multi-judge panel of the Court or the full Court).

"(7) The median time from filing a petition to disposition by the Court.

"(8) The median time from filing an application under section 2412 of title 28 to disposition by the Court.

"(9) The median time from the completion of briefing requirements by the parties to disposition by the Court.

"(10) The median time from the submission of case credentials by the parties to disposition by the Court.

"(b) Applications.—Each report under this section shall be submitted to the Committees of Congress with the fiscal year during which it covers.

"(c) Availability.—Each report under this section shall be made available through the internet and be submitted electronically.
TITLE V—INSURANCE MATTERS

SEC. 501. REPORT ON INCLUSION OF SEVERE AND ACUTE POST TRAUMATIC STRESS DISORDER AMONG CONDITIONS COVERED BY TRAUMATIC INJURY PROTECTION COVERAGE UNDER SERVICEMEMBERS' GROUP LIFE INSURANCE.

(a) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall, in consultation with the Secretary of Defense, submit to the appropriate committees of Congress a report setting forth the assessment of the Secretary of Veterans Affairs as to the feasibility and advisability of including severe and acute Post Traumatic Stress Disorder (PTSD) among the conditions covered by traumatic injury protection coverage under Servicemembers' Group Life Insurance under section 1980A of title 38, United States Code.

(b) CONSIDERATIONS.—In preparing the assessment required by subsection (a), the Secretary of Veterans Affairs shall consider the following:

(1) The advisability of providing traumatic injury protection coverage under Servicemembers' Group Life Insurance under section 1980A of title 38, United States Code, for Post Traumatic Stress Disorder incurred by a member of the armed forces as a direct result of military service in a combat zone that renders the member unable to carry out the daily activities of living after the member is discharged or released from military service.

(2) The unique circumstances of military service, and the unique experiences of members of the armed forces who are deployed to a combat zone.

(3) Any financial strain incurred by family members of members of the armed forces who suffer severe and acute from Post Traumatic Stress Disorder.

(4) The recovery time, and any particular difficulty of the recovery process, for recovery from severe and acute Post Traumatic Stress Disorder.

(5) Such other matters as the Secretary considers appropriate.

(c) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—For purposes of this section, the term "appropriate committees of Congress" means—

(1) the Committee on Armed Services and the Committee on Veterans' Affairs of the Senate; and

(2) the Committee on Armed Services and the Committee on Veterans' Affairs of the House of Representatives.

SEC. 502. TREATMENT OF STILLBORN CHILDREN AS INSURABLE DEPENDENTS UNDER SERVICEMEMBERS' GROUP LIFE INSURANCE.

(a) TREATMENT.—Section 1965(10) is amended by adding at the end of the following new subparagraph:

"(C) The member's stillborn child.".

(b) CONFORMING AMENDMENT.—Section 101(d)(4)(A) is amended by striking "section 1965(10)(B)" in the matter preceding clause (i) and inserting "paragraph (B) or (C) of section 1965(10)".

SEC. 503. OTHER ENHANCEMENTS OF SERVICEMEMBERS' GROUP LIFE INSURANCE COVERAGE.

(a) EXPANSION OF SERVICEMEMBERS' GROUP LIFE INSURANCE TO INCLUDE CERTAIN MEMBERS OF THE FAMILY OF A DECEASED SERVICEPERSON.—

(1) IN GENERAL.—Section 1967(a)(1)(C) is amended by striking "section 1965(5)(B) of this title" and inserting "paragraph (B) or (C) of section 1965(5) of this title".

(2) CONFORMING AMENDMENTS.—

(A) Section 1967(a)(5)(C) is amended by striking "section 1965(5)(B) of this title" and inserting "paragraph (B) or (C) of section 1965(5) of this title"; and

(B) Section 1969(g)(1)(B) is amended by striking "section 1965(5)(B) of this title" and inserting "paragraph (B) or (C) of section 1965(5) of this title".

(b) REDUCTION IN PERIOD OF DEPENDENTS' COVERAGE AFTER MEMBER SEPARATES.—Section 1966a(5)(B)(ii) is amended by striking "120 days after".

(c) AUTHORITY TO SET PREMIUMS FOR READY RESERVISTS' SPOUSES.—Section 1969(g)(1)(B) is amended by striking "(which shall be the same for all such members)".

(d) FORFEITURE OF SERVICEMEMBERS' GROUP LIFE INSURANCE.—Section 1973 is amended by striking "under this subchapter and amend "Servicepersons' Group Life Insurance under this subchapter".

(e) EFFECTIVE AND APPLICABILITY DATES.—

(1) The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall apply with respect to Servicepersons' Group Life Insurance coverage for an insurable dependent of a member, as defined in section 1965(10) of title 38, United States Code (as amended by section 102 of this Act), that begins on or after the date of the enactment of this Act.

(3) The amendment made by subsection (c) shall take effect on January 1, 2001, immediately after the enactment of the Veterans' Survivor Benefits Improvements Act of 2001 (Public Law 107-14; 115 Stat. 25).

(4) The amendment made by subsection (d) shall apply with respect to any act of mutiny, treason, spying, or desertion committed on or after the date of the enactment of this Act for which a person is insulated.

Title VI—OTHER MATTERS

SEC. 601. AUTHORITY FOR SUSPENSION OR TERMINATION OF CLAIMS OF THE UNITED STATES AGAINST INDIVIDUALS WHO OBTAINED SERVICE ON ACTIVE DUTY IN THE ARMED FORCES.

(a) AUTHORITY.—Section 3711(f) of title 31, United States Code, is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph (3):

"(3) The Secretary of Veterans Affairs may suspend or terminate an action by the Secretary under this section against the estate of a person who died while serving on active duty as a member of the Army, Navy, Air Force, Marine Corps, or Coast Guard during a period when the Coast Guard is operating as a service in the Navy if the Secretary determines that, under the circumstances applicable with respect to the deceased person, it is appropriate to do so.

(b) EQUITABLE REFUND OF AMOUNTS COLLECTED.—The Secretary of Veterans Affairs may refund to the estate of an amount collected by the Secretary (whether before, on, or after the date of the enactment of this Act) from a person who died while serving on active duty as member of the Armed Forces if the Secretary determines that, under the circumstances applicable with respect to the deceased person, it is appropriate to do so.

(c) MEMORIAL HEADSTONES AND MARKERS FOR DECEASED REMARRIED SURVIVING SPOUSES OF VETERANS.—

(1) IN GENERAL.—Section 704(h)(1)(B) is amended by striking "an unremarried surviving spouse whose subsequent remarriage was terminated by death or divorce" and inserting "a surviving spouse who had a subsequent remarriage".

(d) EFFECTIVE DATE.—The amendment made by this section shall apply to deaths occurring on or after the date of the enactment of this Act.

Title VII—ECONOMIC SECURITY

SEC. 702. THREE-YEAR EXTENSION OF AUTHORITY TO CARRY OUT INCOME VERIFICATION.

Section 5317(g) is amended by striking "September 30, 2008" and inserting "September 30, 2011".

SEC. 703. THREE-YEAR EXTENSION OF TEMPORARY AUTHORITY FOR THE PERFORMANCE OF MEDICAL DISABILITY EXAMINATIONS BY CONTRACT PHYSICIAN.

Section 704(c) of the Veterans Benefits Act of 2008 (Public Law 110-183; 117 Stat. 2651; 38 U.S.C. 5101 note) is amended by striking "December 31, 2009" and inserting "December 31, 2012".

Amend the title so as to read: "A Bill to amend title 38, United States Code, to improve and enhance compensation and pensions, housing, labor and education, and insurance benefits for veterans, and for other purposes."

Mr. AKAKA. Mr. President, I am pleased that the Senate is acting on S. 3023, the proposed Veterans' Benefits Enhancement Act of 2012. As reported by the Committee on Veterans' Affairs. This omnibus veterans' benefits bill will provide much needed support to our Nation's veterans. It contains six titles and 34 provisions that are designed to enhance compensation, housing, labor and education, and insurance benefits for veterans. A full explanation of the bill is available in the committee's report accompanying this legislation, Senate Report 112-410.

I believe that it is important that we view veterans' compensation, and indeed all benefits earned by veterans, as a continuing cost of war. This legislation reflects that perspective. I will highlight a few of the provisions that I have sponsored in the legislation that is before us today.

This legislation would result in improved notices being sent to veterans concerning their claims for VA benefits. Following a number of decisions by the U.S. Court of Appeals for Veterans' Claims and the U.S. Court of Appeals for the Federal Circuit, VA's notification letters to veterans about the status of their claims must now be increasingly long, complex, and difficult to understand. These notification letters must be simplified, as veterans,
VA. Veterans’ advocates, and outside review bodies have all recommended. The notices should focus on the specific type of claim presented. They should use plain and ordinary language rather than bureaucratic jargon. Veterans should be allowed to request additional information as they seek benefits.

To further improve the VA compensation system, this legislation would end the prohibition on judicial review in the United States Court of Appeals for Federal Circuit of matters concerning the VA rating schedule. VA issues regulations which are used to assign ratings to veterans for particular disabilities. Under current law, actions concerning the rating schedule are not subject to judicial review unless a constitutional challenge is presented. This legislation would amend the law to treat actions concerning the rating schedule in the same manner as all other actions concerning VA regulations.

I encourage VA to comply with all laws passed by Congress in developing and revising the Rating Schedule. However, justice to our Nation’s veterans requires that actions concerning the rating schedule be subject to the same judicial review availability that Congress intended when it reviewed the rating schedule in the same manner as all other actions concerning VA regulations.

VA’s home loan guaranty program may exempt homeowners from having to make a down payment or secure private mortgage insurance, depending on the size of the loan and the amount of the VA guaranty. In general, eligibility is extended to veterans who served on active duty for a minimum of 90 days during wartime, or 181 continuous days during peacetime, and have a discharge other than dishonorable. Members of the Guard and Reserve who have never been called to active duty must serve a total of six years in order to be eligible for the benefit. Certain surviving spouses are also eligible for the housing guaranty.

Public Law 108–454 increased VA’s maximum guaranty amount to 25 percent of the Freddie Mac conforming loan limit determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act for a single family residence, as adjusted for the year involved.

The Economic Stimulus Act of 2008, Public Law 110–185, temporarily reset the conforming loan limits on homes on which the Federal Housing Administration may insure and that Fannie Mae and Freddie Mac may purchase on the secondary market. Under current law, this does not include regular refinance loans.

Current law limits to $36,000 the guaranty that can be used for a regular refinance loan. This means VA will not guarantee a regular refinance loan over $144,000, essentially precluding a veteran from using the VA program to refinance his or her existing FHA or conventional loan in excess of that amount.

VA is also currently precluded from refinancing a loan if the homeowner does not have at least 10 percent equity in his or her home.

The committee bill would decrease the equity requirement from 10 percent to 5 percent for refinancing from an FHA loan or conventional loan to a VA-guaranteed loan. This would allow more veterans to use their VA benefit to refinance their mortgages. Many veterans do not have 10 percent equity and thus are precluded from refinancing with a VA-guaranteed home loan.

Given the anticipated number of non-VA-guaranteed adjustable rate mortgages that are approaching the reset time when payments are likely to increase, the committee believes that it is prudent to facilitate veterans refinancing to VA-guaranteed loans.

In light of today’s housing and home loan market situation, additional refinancing options will help some veterans bridge financial gaps and allow them to stay in their homes and escape possible foreclosures. These provisions would allow more qualified veterans to refinance their home loans under the VA program.

The omnibus benefits bill would also make crucial updates to the Uniformed Services Employment and Reemployment Rights Act, which protects servicemembers’ rights to return to their prior jobs with the same wages and benefits. The provisions in the committee bill are derived from S. 2471, the proposed “USERRA Enforcement Improvement Act of 2007,” which Senator Kennedy and I introduced on December 13, 2007. This legislation would ensure that federal agencies assist servicemembers in a more effective manner, by requiring the Department of Labor to investigate and respond to reports of violation in a more timely manner, and by requiring reports from the Department of Labor on their compliance with the deadlines.

Finally, the omnibus benefits bill includes provision derived from S. 3000, the proposed “Native American Veterans Access Act of 2008,” which I introduced on May 8, 2008. This provision is intended to improve VA’s ability to understand and respond to the needs of Native American veterans. While Native Americans are more likely to serve in uniform than the general population, many of them find cultural and geographical barriers between them and the benefits they earned through service. In addition, those returning to traditional homelands, especially reservation communities, frequently come home to dismal job opportunities and starved economies. The proposed bill would require a study to help us understand the employment needs of Native American veterans and how best to address them.

I thank the committee’s ranking member, Senator Burr, for the agreement we have been able to reach. I truly appreciate his cooperation and that of the other members of the committee that have aided our work. I look forward to working with all those on the committee and our colleagues in the House in order to bring this legislation to final action before the end of this month.

I urge colleagues to support this important legislation that would benefit many of this Nation’s nearly 24 million veterans and their families.

Mr. BURR, Mr. President, as ranking member of the Senate Committee on Veterans’ Affairs, I rise today to express my support for S. 3023, the Veterans Benefits Improvement Act of 2008. This veterans’ benefits omnibus bill will make a wide assortment of improvements to benefits programs for veterans.

I commend Chairman Akaka for his efforts in crafting this committee bill which reflects the bipartisan work of almost every member of our committee and over 30 other Senators. The result of our work is a bill with 35 provisions targeted on economic rehabilitation, employment, housing, compensation, insurance, memorial affairs, and other issues.

Among many other valuable provisions, this bill includes an education benefit that draws from a North Carolinian who has become one of the foremost advocates of the needs of severely injured servicemen and women and their families. Sarah Wade, spouse of Ted Wade, an Iraq war veteran who lost his right arm and has battled the effects of severe traumatic brain injury after an explosive detonated under his Humvee in 2004, has
been at her husband’s side as a primary caregiver from the beginning. She quit her job to take care of Ted and has doggedly ensured that he receives the highest quality of care. It is likely that her intensive involvement in Ted’s on-going recovery will last for several more years.

Sarah’s effort on behalf of her husband leaves little time for herself. Sarah would one day like to go to school. Although VA provides an educational benefit for the spouses of totally disabled veterans and servicemembers, the law requires that the benefit be used within 10 years of the date the veteran receives a total disability rating. For a spouse like Sarah Wade, there is next to no time to take advantage of this benefit within that timeframe. The recovery period for a TBI-afflicted veteran—the very period that Ted needs Sarah the most—simply precludes her from pursuing that option.

In recognition of hundreds of spouses like Sarah, the Veterans’ Benefits Improvement Act of 2008 would extend from 10 to 20 years the period within which certain spouses of severely disabled veterans could use their education benefits. That longer period will allow Sarah and others to focus on their first priority, the care of their injured spouses, while giving them some flexibility to pursue their educational goals later on. This provision is simply the right thing to do.

Another provision that I would like to discuss is one that would require human resource specialists in the Federal executive branch to receive training on the Uniformed Services Employment and Reemployment Rights Act or USERRA. This law provides a wide range of employment protections to veterans, future and current members of the Armed Forces, and Guard and Reserve members.

More than 60 years ago Congress recognized that those who serve our country in a time of need should be entitled to resume their civilian jobs when they return home. After Congress passed the first law providing reemployment rights to servicemen and women in 1940, President Roosevelt said these rights to servicemen and women in uniform would be “the Federal Government should be a model employer” when it comes to complying with this law. In my view, this means the Federal Government should not take a single returning servicemember is denied proper reinstatement to a Federal job. But unfortunately, this is not happening yet.

At a hearing last year, the Committee on Veterans’ Affairs learned that the Federal executive branch continues to violate this law. Worse, these violations are often the result of lack of understanding or knowledge about what the law requires. In fact, the Assistant Secretary for Veterans Employment and Training of the U.S. Department of Labor testified at our hearing that “about half” of Federal USERRA cases occur because “the Federal hiring manager just doesn’t understand the law or the regulations that spell out how to implement the law.”

Based on that, it seems clear that we need to do more to prevent these USERRA violations from occurring in the first place. We owe nothing less to those who have served and sacrificed so much for our nation. That is why I have championed this provision to require the head of each Federal executive agency to provide training for their human resources personnel on the rights, benefits, and obligations under USERRA. I am very pleased that this provision was included in the omnibus bill and hope it will soon become law.

The Veterans’ Benefits Improvement Act of 2008 also includes a provision that would require VA to provide Congress with a plan for updating its disability rating schedule and a timeline for when changes will be made. This rating schedule—such as when a veteran’s injury or disability was incurred—is the cornerstone of the entire VA claims processing system—was developed in the early 1900s and about 33 percent of it has not been updated since 1945. It is riddled with outdated criteria that do not reflect modern medicine. Take for example traumatic arthritis. The rating schedule requires a veteran to show proof of this condition through x-ray evidence. But doctors today would generally diagnose the condition using modern technology, like an MRI.

Even worse, experts have been telling us the rating schedule is not adequate for rating conditions like post-traumatic stress disorder and traumatic brain injury, which is afflicting so many of our veterans from the War on Terror. Also, experts have told us that the schedule does not adequately compensate young, severely disabled veterans; veterans with mental disabilities; and veterans who are unemployable.

To address this situation, VA has been conducting studies on the appropriate level of disability compensation to account for any loss of earning capacity and any loss of quality of life caused by service-related disabilities. To make sure these studies don’t get put on a shelf to collect dust—as has happened in the past—this bill would require VA to submit a report outlining the findings and recommendations of those studies, a list of the actions that VA plans to take in response, and a timeline for when VA plans to take those actions. My hope is that this will finally prompt the type of complete update that the VA rating schedule has needed for so long.

These are only a few of the 35 items in this bill. I am confident that each of the bill’s provisions will improve the lives of and veterans, even if only in a small way. My hope is that these provisions, and others, will be passed by both Houses before Congress leaves for the year. I ask my colleagues for their support as Chairman AKAKA and I work to make sure that happens.

Mr. LEVIN. Mr. President, I further ask unanimous consent that the Akaka amendment be agreed to; that the committee’s substitute amendment, as amended, be agreed to; that the bill be read a third time and passed; the title amendment be agreed to; the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements relating to the bill be printed in the Record.

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

The amendment (No. 5614) was agreed to, as follows:

(Purpose: To strike section 311, relating to relief for students who discontinue education because of military service, and to provide a temporary increase in the number of authorized judges of the United States Court of Appeals for Veterans Claims)

Strike section 311.

Strike section 401 and insert the following:

SEC. 401. TEMPORARY INCREASE IN NUMBER OF AUTHORIZED JUDGES OF THE UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS.

Section 2753 is amended by adding at the end the following new subsection:

“(1) ADDITIONAL TEMPORARY EXPANSION OF COURT.—(I) Subject to paragraph (2), effective as of December 31, 2009, the authorized number of judges of the Court specified in subsection (a) is increased by two.

“(II) Effective as of January 1, 2013, an appointment may not be made to the Court if the appointment would result in there being more judges of the Court than the authorized number of judges of the Court specified in subsection (a).”.

On page 47, between lines 20 and 21, insert the following:

“(15) An assessment of the workload of each judge of the Court, including consideration of the following:

“(A) The time required of each judge for disposition of each type of case.

“(B) The number of cases reviewed by the Court.

“(C) The average workload of other Federal judges”.

The committee amendment in the nature of a substitute, as amended, was agreed to.
The bill (S. 3023), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3023

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as the “Veterans’ Benefits Improvement Act of 2008”.

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

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<th>Section</th>
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<td>Sec. 1</td>
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<td>Sec. 2</td>
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**TITLE I—COMPENSATION AND PENSION MATTERS**

Sec. 101. Regulations on contents of notice to be provided claimants with the Department of Veterans Affairs concerning the substantiation of claims.

Sec. 102. Judicial review of adoption and revision by the Secretary of Veterans Affairs of the schedule of ratings for disabilities of veterans.

Sec. 103. Automatic annual increase in rates of disability compensation and dependency and indemnity compensation.

Sec. 104. Conforming amendment relating to non-deductibility from veterans’ disability compensation of disability severance pay for disabilities incurred by members of the Armed Forces in combat zones.

Sec. 105. Report on progress of the Secretary of Veterans Affairs in addressing cases for variances in compensation payments for veterans for service-connected disabilities.

Sec. 106. Report on studies regarding compensation of veterans for loss of earning capacity and quality of life and on long-term transition payments to veterans under going rehabilitation for service-connected disabilities.

**TITLE II—HOUSING MATTERS**

Sec. 201. Temporary increase in maximum loan guaranty amount for certain housing loans guaranteed by the Secretary of Veterans Affairs.


Sec. 203. Four-year extension of demonstration projects on adjustable rate mortgages.

Sec. 204. Eligibility for specially adapted housing benefits and assistance for members of the Armed Forces with a service-connected disability.

Sec. 205. Report on impact of mortgage foreclosures on veterans.

**TITLE III—LABOR AND EDUCATION MATTERS**

Subtitle A—Labor and Employment Matters

Sec. 301. Waiver of 24-month limitation on program of independent living services and assistance for veterans with a severe disability incurred in the Post-9/11 Global Operations period.

Sec. 302. Reform of USERRA complaint process.

Sec. 303. Modification and expansion of reporting requirements with respect to enforcement of USERRA.

Sec. 304. Training for executive branch human resources personnel on employment and reemployment rights of members of the uniformed services.

Sec. 305. Report on the employment needs of Native American veterans living on tribal lands.

Sec. 306. Report on measures to assist and encourage veterans in completing vocational rehabilitation.

**TITLE IV—COURT MATTERS**

Sec. 401. Temporary increase in number of authorized judges of the United States Court of Appeals for Veterans Claims.

Sec. 402. Protection of privacy and security concerns in court records.

Sec. 403. Recall of retired judges of the United States Court of Appeals for Veterans Claims.

Sec. 404. Annual reports on workload of the United States Court of Appeals for Veterans Claims.

**TITLE V—INSURANCE MATTERS**


Sec. 502. Treatment of stillborn children as insurable dependents under Servicemembers’ Group Life Insurance.

Sec. 503. Other enhancements of Servicemembers’ Group Life Insurance coverage.

**TITLE VI—OTHER MATTERS**

Sec. 601. Authority for suspension or termination of claims of the United States against individuals who died while serving on active duty in the Armed Forces.

Sec. 602. Memorial medals and markers for deceased remarried surviving spouses of veterans.

Sec. 603. Three-year extension of authority to carry out income verification.

Sec. 604. Three-year extension of temporary authority for the performance of medical disability examinations by contract physicians.

**SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.**

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

**TITLE I—COMPENSATION AND PENSION MATTERS**

**SEC. 101. REGULATIONS ON CONTENTS OF NOTICE TO BE PROVIDED CLAIMANTS WITH THE DEPARTMENT OF VETERANS AFFAIRS REGARDING THE SUBSTANTIATION OF CLAIMS.**

(a) IN GENERAL.—Section 510(a)(8) is amended by—

(1) by inserting “(1)” before “Upon receipt”;

and

(2) by adding at the end the following new paragraph:

“(2)(A) The Secretary shall prescribe in regulations requirements relating to the contents of notice to be provided under this subsection.

“(B) The regulations required by this paragraph—

“(i) shall specify different contents for notice depending on whether the claim concerned is an original claim, a claim for reopening a prior decision on a claim, or a claim for increase in benefits;

“(ii) may provide additional or alternative contents for notice if appropriate to the benefit or services sought by the veteran or surviving spouse;

“(iii) shall specify for each type of claim for benefits the general information and evidence required to substantiate the basic elements of such type of claim; and

“(iv) shall specify the time period limitations required pursuant to subsection (b).”.

(b) APPLICABILITY.—The regulations required by paragraph (a) of title 38, United States Code (as amended by subsection (a) of this section), shall apply with respect to notices provided to claimants on or after the effective date of such regulations.

**SEC. 102. JUDICIAL REVIEW OF ADOPTION AND REVISION BY THE SECRETARY OF VETERANS AFFAIRS OF THE SCHEDULE OF RATINGS FOR DISABILITIES OF VETERANS.**

Section 502 is amended by striking “other than an action relating to the adoption or revision of the schedule of ratings for disabilities adopted under section 1155 of this title”.

**SEC. 103. AUTOMATIC ANNUAL INCREASE IN RATES OF DISABILITY COMPENSATION, DEPENDENCY AND INDEMNITY COMPENSATION.**

(a) INDEXING TO SOCIAL SECURITY INCREASES.—Section 5312 is amended by adding at the end the following new subsection:

“(d)(1) Whenever there is an increase in benefit amounts payable under title II of the Social Security Act (42 U.S.C. 410 et seq.) as a result of a determination made under section 215(i) of such Act (42 U.S.C. 415(i)), the Secretary shall, effective on the date of such increase in benefit amounts, increase the dollar amounts in effect for the payment of disability compensation and dependency and indemnity compensation by the same percentage as the percentage by which such benefit amounts are increased.

“(2) The dollar amounts to be increased pursuant to paragraph (1) are the following:

“(A) Compensation.—Each of the dollar amounts in effect under section 1114 of this title.

“(B) Additional compensation for dependents.—Each of the dollar amounts in effect under section 1114 of this title.

“(C) DEDUCTION.—The dollar amount in effect under section 1162 of this title.
"(D) NEW DIC RATES.—Each of the dollar amounts in effect under paragraphs (1) and (2) of section 1311(a) of this title.

"(E) OLD DIC RATES.—Each of the dollar amounts in effect under section 1311(b) of this title.

"(F) ADDITIONAL DIC FOR SURVIVING SPOUSES WITH MINOR CHILDREN.—The dollar amount in effect under section 1311(b)(3) of this title.

"(G) ADDITIONAL DIC FOR DISABILITY.—Each of the dollar amounts in effect under sections 1311(a) and 1314 of this title.

"(H) DIC FOR DEPENDENT CHILDREN.—Each of the dollar amounts in effect under sections 1313(a) and 1314 of this title.

(d) The amendments made by section (b) to section 215(g)(3)(D) of the Social Security Act (42 U.S.C. 415(g)(3)(D)) are published by reason of a determination under section 215(1) of such Act (42 U.S.C. 415(i))."

(b) Subsection (d) of section 5152 of title 38, United States Code, as added by subsection (a) of this section, shall take effect on December 1, 2009.

SEC. 104. CONFORMING AMENDMENT RELATING TO NON-DEDUCTIBILITY FROM VETERANS' DISABILITY COMPENSATION OF ANY INCOME INCURRED FROM DISABILITIES INCURRED BY MEMBERS OF THE ARMED FORCES IN COMBAT ZONES.

(a) CONFORMING AMENDMENT.—Section 1646 of the Wounded Warrior Act (title XVI of Public Law 110-181; 122 Stat. 412) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection (c):

"(c) CONFORMING AMENDMENT.—Section 1646 of title 38, United States Code, is amended by striking "as required by section 1212(c) of title 10" and inserting "as required by section 1212(d) of title 10".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on January 28, 2008 (the date of the enactment of the Wounded Warrior Act), as if included in that Act, to which they relate.

SEC. 105. REPORT ON PROGRESS OF THE SECRETARY OF VETERANS AFFAIRS IN ADDRESSING CAUSES FOR NON-DEDUCTIBILITY OF AMOUNTS FOR VETERANS FOR SERVICE-CONNECTED DISABILITIES.

(a) REPORT REQUIREMENT.—Not later than one year after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Senate Committee on Veterans' Affairs and the Senate Committee on Veterans' Affairs of the House of Representatives a report describing the progress of the Secretary in addressing the causes of unacceptability of compensation payments for veterans for service-connected disabilities.

(b) ELEMENTS.—The report required under subsection (a) shall include the following:

(1) A description of the efforts of the Veterans Benefits Administration to coordinate with the Veterans Health Administration to improve the accuracy and timeliness of examinations of veterans with service-connected disabilities that are performed by the Veterans Health Administration and contract clinicians, including according to the standards contained in the approved templates for such examinations and of reports on such examinations that are based on such templates prepared in an easily-readable format.

(2) An assessment of the current personnel requirements of the Veterans Benefits Admin-

istration, including an assessment of the adequacy of the number of personnel as-

signed to each regional office of the Admin-

istration for each type of claim adjudication position.

(3) A description of the differences, if any, in current patterns of submittal rate of claims to the Secretary of Veterans Affairs resulting from service-connected disabilities among various populations of veterans, in-

cluding veterans living in rural and highly rural areas, minority veterans, veterans who are retired from the Armed Forces, and veterans who are not members of the Armed Forces, and a description and assessment of efforts undertaken to eliminate such dif-

ferences.

SEC. 106. REPORT ON STUDIES REGARDING COMPEN-
SATION OF VETERANS FOR LOSS OF CAPACITY AND QUALITY OF LIFE AND ON LONG-TERM TRANSITION PAYMENTS TO VETERANS UNDERGOING REHABILITA-
TION FOR SERVICE-CONNECTED DISABILITIES.

(a) FINDING.—Congress finds that the Secretary of Veterans Affairs entered into a contract in February 2008 to conduct two studies as follows:

(1) A study on the appropriate levels of dis-

ability compensation to be paid to veterans to compensate for loss of earning capacity and quality of life as a result of service-re-

lated disabilities.

(2) A study on the feasibility and appro-

priate level of long-term transition pay-

ments to veterans who are separated from the Armed Forces due to disability while such veterans are undergoing rehabilitation for such disability.

(b) REPORT REQUIREMENT.—

(1) IN GENERAL.—The Secretary of Veterans Affairs shall submit to Congress a report on the studies referred to in subsection (a).

(2) ELEMENTS.—The report required by this subsection shall include the following:

(A) A comprehensive description of the findings and recommendations of the studies.

(B) A description of the actions proposed to be taken by the Secretary in light of such findings and recommendations, including a description of any modification of the schedule for rating disabilities of veterans under section 1151 of title 38, United States Code, proposed to be undertaken by the Secretary and of any other modification of policy or regulations proposed to be undertaken by the Secretary.

(C) For each action proposed to be taken as described in subparagraph (B), a proposed schedule for the taking of such action, in-

cluding a schedule for the commencement and completion of such action.

(D) A description of any legislative action required in order to authorize, facilitate, or fund any action proposed to be taken as described in subparagraph (B).

(3) SUBMITTAL DATE.—The report required by this subsection shall be submitted not later than one year after the date of the enactment of this Act.

TITLE II—HOUSING MATTERS

SEC. 201. TEMPORARY INCREASE IN MAXIMUM LOAN GUARANTY AMOUNT FOR CERTAIN VETERANS UNDERGOING REHABILITATION GUARANTEED BY THE SECRETARY OF VETERANS AFFAIRS.

Notwithstanding subsection (C) of section 3703(a)(1) of title 38, United States Code, for purposes of any loan described in sub-

paragraph (A)(iv) of such section that is originated during the period beginning on the date of the enactment of this Act and ending on December 31, 2011, the term "maximum guaranty amount" shall mean an amount equal to—

(1) the limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) for the calendar year in which the loan is originated for a single-family residence; or

(2) 125 percent of the area median price for a single-family residence, but not in excess of 25 percent of the maximum guaranty amount as determined by the Secretary for the location of the property which serves as security for the loan.
Section 3105(d) is amended—
(1) by striking “Unless the Secretary” and all that follows through “the period of a program” and inserting “(1) Except as provided in paragraph (2), the period of a program”; and
(2) by adding at the end the following new paragraph:
“§ 4327. Noncompliance of Federal officials with deadlines; inapplicability of statutes of limitations
(a) EFFECT OF NONCOMPLIANCE OF FEDERAL OFFICIALS WITH DEADLINES.—The inapplicability of statutes of limitations (B) by redesignating paragraph (2) as paragraph (1), the Special Counsel shall—
(i) make a decision whether to represent a person before the Merit Systems Protection Board under subparagraph (A); and
(ii) notify such person in writing of such decision.
(S) DEADLINES, STATUTES OF LIMITATIONS, AND RELATED MATTERS.—
(1) IN GENERAL.—Subchapter III of chapter 43 is amended by adding at the end the following new section:
§ 4327. Noncompliance of Federal officials with deadlines; inapplicability of statutes of limitations
(a) EFFECT OF NONCOMPLIANCE OF FEDERAL OFFICIALS WITH DEADLINES.—The inapplicability of statutes of limitations.
(B) by redesignating paragraph (2) as paragraph (1), the Special Counsel shall—
(i) make a decision whether to represent a person before the Merit Systems Protection Board under subparagraph (A); and
(ii) notify such person in writing of such decision.
(3) CONFORMING AMENDMENT.—Section 4323 is further amended—
(A) by striking subsection (i); and
(B) by redesignating subsection (j) as subsection (i).
SEC. 303. MODIFICATION AND EXPANSION OF REPORTING REQUIREMENTS WITH RESPECT TO ENFORCEMENT OF USERRA.
(a) DATE OF ANNUAL REPORTS.—Section 4332 is amended by striking “and no later than January 1” and inserting “not later than January 1 and transmit to Congress not later than July 1 each year a report on matters for the fiscal year ending in the calendar year in which such report is transmitted as follows:”.
(b) MODIFICATION OF ANNUAL REPORTS BY SECRETARY.—Such section is further amended—
(1) by striking “The Secretary shall” and inserting “(a) ANNUAL REPORT BY SECRETARY.—The Secretary shall”;
(2) in paragraph (3), by inserting before the period at the end the following:
“(b) Annual Report by Attorney General.—Not later than 30 days after the end of the fiscal year, the Attorney General shall submit to the Senate and the House of Representatives a report setting forth, for the previous full fiscal year, the number of cases for which the Secretary of Defense received a request for a referral under paragraph (1) of section 4323(a) of this title but did not make such referral within the time period required by such paragraph. Such report shall be transmitted to the Senate and the House of Representatives not later than January 1 of each year.”.
SEC. 304. MODIFICATION OF REPORTING REQUIREMENTS FOR EMPLOYERS WITH A DISABILITIES IN THE POST-9/11 GLOBAL OPERATIONS PERIOD.
(a) MODIFICATION OF REPORTING REQUIREMENTS.—
(B) by inserting after paragraph (1) the following new paragraph:
“§ 4327. Noncompliance of Federal officials with deadlines; inapplicability of statutes of limitations.
(a) EFFECT OF NONCOMPLIANCE OF FEDERAL OFFICIALS WITH DEADLINES.—The inapplicability of statutes of limitations.
(b) by redesignating paragraph (2) as paragraph (1), the Special Counsel shall—
(i) make a decision whether to represent a person before the Merit Systems Protection Board under subparagraph (A); and
(ii) notify such person in writing of such decision.
(C) Notwithstanding paragraph (2), this chapter may extend twenty-four months as follows:
(1) If the Secretary determines that a longer period is necessary and likely to result in a substantial increase in the veteran’s level of independence in daily living.
(2) If the veteran served on active duty during the Persian Gulf War beginning on September 20, 1990, the Secretary shall—
(A) by redesignating subparagraph (A) of such paragraph (1), the Special Counsel shall—
(i) make a decision whether to represent a person before the Merit Systems Protection Board under subparagraph (A); and
(ii) notify such person in writing of such decision.
(S) DEADLINES, STATUTES OF LIMITATIONS, AND RELATED MATTERS.—
(1) IN GENERAL.—Subchapter III of chapter 43 is amended by adding at the end the following:
§ 4327. Noncompliance of Federal officials with deadlines; inapplicability of statutes of limitations
(a) EFFECT OF NONCOMPLIANCE OF FEDERAL OFFICIALS WITH DEADLINES.—The inapplicability of statutes of limitations.
(B) by redesignating paragraph (2) as paragraph (1), the Special Counsel shall—
(i) make a decision whether to represent a person before the Merit Systems Protection Board under subparagraph (A); and
(ii) notify such person in writing of such decision.
(3) CONFORMING AMENDMENT.—Section 4323 is further amended—
(A) by striking subsection (i); and
(B) by redesignating subsection (j) as subsection (i).
SEC. 305. MODIFICATION AND EXPANSION OF REPORTING REQUIREMENTS WITH RESPECT TO ENFORCEMENT OF USERRA.
(a) DATE OF ANNUAL REPORTS.—Section 4332 is amended by striking “and no later than January 1” and inserting “not later than January 1 and transmit to Congress not later than July 1 each year a report on matters for the fiscal year ending in the calendar year in which such report is transmitted as follows:”.
(b) MODIFICATION OF ANNUAL REPORTS BY SECRETARY.—Such section is further amended—
(1) by striking “The Secretary shall” and inserting “(a) ANNUAL REPORT BY SECRETARY.—The Secretary shall”;
(2) in paragraph (3), by inserting before the period at the end the following:
“(b) Annual Report by Attorney General.—Not later than 30 days after the end of the fiscal year, the Attorney General shall submit to the Senate and the House of Representatives a report setting forth, for the previous full fiscal year, the number of cases for which the Secretary of Defense received a request for a referral under paragraph (1) of section 4323(a) of this title but did not make such referral within the time period required by such paragraph. Such report shall be transmitted to the Senate and the House of Representatives not later than January 1 of each year.”.
SEC. 306. MODIFICATION OF REPORTING REQUIREMENTS FOR EMPLOYERS WITH A DISABILITIES IN THE POST-9/11 GLOBAL OPERATIONS PERIOD.
(a) MODIFICATION OF REPORTING REQUIREMENTS.—
(B) by inserting after paragraph (1) the following new paragraph:
“§ 4327. Noncompliance of Federal officials with deadlines; inapplicability of statutes of limitations.
(a) EFFECT OF NONCOMPLIANCE OF FEDERAL OFFICIALS WITH DEADLINES.—The inapplicability of statutes of limitations.
(b) by redesignating paragraph (2) as paragraph (1), the Special Counsel shall—
(i) make a decision whether to represent a person before the Merit Systems Protection Board under subparagraph (A); and
(ii) notify such person in writing of such decision.
(C) Notwithstanding paragraph (2), this chapter may extend twenty-four months as follows:
(1) If the Secretary determines that a longer period is necessary and likely to result in a substantial increase in the veteran’s level of independence in daily living.
(2) If the veteran served on active duty during the Persian Gulf War beginning on September 20, 1990, the Secretary shall—
(A) by redesignating subparagraph (A) of such paragraph (1), the Special Counsel shall—
(i) make a decision whether to represent a person before the Merit Systems Protection Board under subparagraph (A); and
(ii) notify such person in writing of such decision.
(S) DEADLINES, STATUTES OF LIMITATIONS, AND RELATED MATTERS.—
(1) IN GENERAL.—Subchapter III of chapter 43 is amended by adding at the end the following:
§ 4327. Noncompliance of Federal officials with deadlines; inapplicability of statutes of limitations
(a) EFFECT OF NONCOMPLIANCE OF FEDERAL OFFICIALS WITH DEADLINES.—The inapplicability of statutes of limitations.
(B) by redesignating paragraph (2) as paragraph (1), the Special Counsel shall—
(i) make a decision whether to represent a person before the Merit Systems Protection Board under subparagraph (A); and
(ii) notify such person in writing of such decision.
(3) CONFORMING AMENDMENT.—Section 4323 is further amended—
(A) by striking subsection (i); and
(B) by redesignating subsection (j) as subsection (i).
the Attorney General received a referral under paragraph (1) of section 4322(a) of this title but did not meet the requirements of paragraph (2) of section 4322(a) of this title for such such referral, the Secretary of Defense, and the Attorney General a report setting forth, for the previous full quarter, the number of cases for which the Special Counsel received a referral, and such paragraph (1) of section 4322(a) of this title but did not meet the requirements of paragraph (2)(B) of section 4322(a) of this title for such such report.\n
(3) QUARTERLY REPORT BY SPECIAL COUNSEL.—Not later than 30 days after the end of each fiscal quarter, the Special Counsel shall submit to the Secretary, the Secretary of Defense, and the Attorney General a report setting forth, for the previous full quarter, the number of cases for which the Special Counsel received a referral, and such such paragraph (1) of section 4322(a) of this title but did not meet the requirements of paragraph (2)(B) of section 4322(a) of this title for such such report.\n
(4) The extent to which the Attorney General, and the Special Counsel each have electronic access to the case files reviewed under this chapter by the Secretary of Defense, the Secretary of Veterans Affairs, the Attorney General, and the Special Counsel with due regard for the provisions of section 552a of title 5.\n
(c) UNIFORM CATEGORIZATION OF DATA.—\n
The Secretary shall coordinate with the Secretary of Defense, the Attorney General, and the Special Counsel to ensure that—\n
(1) the information in the reports required by this section is categorized in a uniform manner; and\n
(2) the Secretary, the Secretary of Defense, the Attorney General, and the Special Counsel each have electronic access to the case files reviewed under this chapter by the Secretary of Defense, the Attorney General, and the Special Counsel with due regard for the provisions of section 552a of title 5.\n
(d) COMPTEERLY GENERAL REPORT.—Not later than two years after the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report that contains the following:\n
(1) An assessment of the reliability of the data contained in the reports submitted under subsection (b) of section 4322 of title 38, United States Code (as amended by subsection (c) of this section), as of the date of such report;\n
(2) An assessment of the timeliness of the reports submitted under subsection (b) of section 4322 of title 38, United States Code (as so amended), as of such date;\n
(3) The extent to which the Secretary of Labor is meeting the timeliness requirements of subsections (c)(1) and (f) of section 4322 of title 38, United States Code (as so amended, as of such date);\n
(4) The extent to which the Attorney General is meeting the timeliness requirements of section 4322(a)(2) of title 38, United States Code (as amended by section 302 of this Act), as of the date of such report;\n
(5) The extent to which the Special Counsel is meeting the timeliness requirements of section 4324(a)(2)(B) of title 38, United States Code (as amended by section 302 of this Act), as of the date of such report;\n
(6) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to each case under section 4322 of title 38, United States Code (as amended by this section), after the date of the enactment of this Act.\n
SEC. 304. TRAINING FOR EXECUTIVE BRANCH HUMAN RESOURCES PERSONNEL ON EMPLOYMENT AND REEMPLOYMENT RIGHTS OF MEMBERS OF THE UNIFORMED SERVICES.\n
(a) TRAINING REQUIRED.—Subchapter IV of chapter 43 of title 5, United States Code is amended by adding at the end the following new section: 4335. Training for Federal executive agency human resources personnel on employment and reemployment rights and limitations.\n
(b) MATTERS TO BE EXAMINED.—In conducting the study required by subsection (a), the Secretary shall examine the following: (1) Measures utilized in other disability systems in the United States, and in other countries, to encourage completion of vocational rehabilitation by persons covered by such systems.\n
(2) Studies or survey data available to the Secretary to the extent covered by the study.\n
(3) The extent to which disability compensation benefits may be used to encourage veterans to undergo and complete vocational rehabilitation.\n
(5) The report of the President’s Commission on Care for America’s Returning Wounded Warriors.\n
(6) Any other matters that the Secretary considers appropriate for purposes of the study.\n
(c) CONSIDERATIONS.—In conducting the study required by subsection (a), the Secretary shall consider: (1) the extent to which bonus payments or other incentives may be used to encourage veterans to complete their vocational rehabilitation plans; and (2) such other matters as the Secretary considers appropriate.\n
(d) CONSULTATION.—In conducting the study required by subsection (a), the Secretary—\n
(1) shall consult with such veterans and military service organizations, and with such other public and private organizations and individuals, as the Secretary considers appropriate; and\n
(2) may employ consultants.\n
(e) REPORT.—Not later than 270 days after the commencement of the study required by subsection (a), the Secretary shall submit to the Committee on Veterans’ Affairs of the Senate and the Committee on Veterans’ Affairs of the House of Representatives a report on the study. The report shall include the following: (1) The findings of the Secretary under the study; and (2) Any recommendations that the Secretary considers appropriate for actions to be taken by the Secretary in light of the study, including a proposal for such legislation or administrative action as the Secretary considers appropriate to implement the recommendations.\n
Subtitle B—Education Matters\n
SEC. 311. MODIFICATION OF PERIOD OF ELIGIBILITY FOR SURVIVORS’ AND DEPENDENTS’ EDUCATIONAL ASSISTANCE FOR CERTAIN SPouses OF IN- DIVIDUALS WITH SERVICE-CONNECTED DISABILITIES TOTAL AND PERMANENT SERVICE-CONNECTED DISABILITY.\n
Section 3512(b)(1) is amended—\n
(1) in subparagraph (A), by striking “subparagraph (B) or (C)” and inserting “subparagraphs (B), (C), (D), or (D)” and (2) by adding at the end the following new subparagraph: \n
(D) Notwithstanding subparagraph (A), an eligible person referred to in that subparagraph who is made eligible under section 3501(a)(1)(D)(ii) of this title by reason of a service-connected disability that was determined to be a total disability permanent in nature not later than three years after discharge from service may be afforded educational assistance under this chapter during his or her period of eligiblity. The disability was so determined to be a total disability permanent in nature, but only if

SEC. 322. DESIGNATION OF THE OFFICE OF SMALL BUSINESS PROGRAMS OF THE DEPARTMENT OF VETERANS AFFAIRS.

SEC. 323. MODIFICATION OF WAITING PERIOD BEFORE AFFIRMATION OF ENROLLMENT IN A CORRESPONDENCE COURSE.

SEC. 324. CHANGE OF PROGRAMS AT THE SAME EDUCATIONAL INSTITUTION.

SEC. 325. REPEAL OF CERTIFICATION REQUIREMENT WITH RESPECT TO APPLICATIONS FOR APPROVAL OF SELF-EMPLOYMENT ON-JOB TRAINING.

SEC. 326. TEMPORARY INCREASE IN NUMBER OF AUTHORIZED JUDGES OF THE UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS.

SEC. 327. PROTECTION OF PRIVACY AND SECURITY CONCERNS IN COURT RECORDS.

SEC. 328. PAY DURING PERIOD OF RECALL.

SEC. 329. ANNUAL REPORTS ON WORKLOAD OF THE UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS.

SEC. 330. TEMPORARY EXPANSION OF COURT—(a) Subject to paragraph (2), effective as of December 31, 2009, the authorized number of judges of the Court specified in subsection (a) is increased by two.  

"(1) In the case of a judge who is a recall-eligible retired judge under section 7257 of this title or who was a recall-eligible retired judge under section 7257(d) of this title, the retired pay of the judge shall (subject to section 7257(d)(2) of this title) be the rate of pay applicable to that judge at the time of retirement, as adjusted from time to time under subsection (d).  

"(2) In the case of a judge other than a recall-eligible retired judge, the retired pay of the judge shall be the rate of pay applicable to that judge at the time of retirement.  

"(b) The Clerk of the Court shall submit to the appropriate committees of Congress each year a report summarizing the workload of the Court for the fiscal year ending during the preceding year, including, at least for fiscal year 2010:

"(1) The number of appeals filed with the Court;  

"(2) The number of petitions filed with the Court;  

"(3) The number of applications filed with the Court under section 2412 of title 28;  

"(4) The total number of dispositions by each of the following:

"(A) The Court as a whole.  

"(B) The Clerk of the Court.  

"(C) A single judge of the Court.  

"(D) A multi-judge panel of the Court.  

"(E) The full Court.  

"(5) The number of each type of disposition by the Court, including settlement, affirmation, remand, vacation, dismissal, reversal, grant, and denial.  

"(6) The median time from filing an appeal to disposition by each of the following:

"(A) The Court as a whole.  

"(B) The Clerk of the Court.  

"(C) A single judge of the Court.  

"(D) Multiple judges of the Court (including a multi-judge panel of the Court or the full Court).  

"(7) The median time from filing a petition to disposition by the Court.  

"(8) The median time from filing an application under section 2412 of title 28 to disposition by the Court.  

"(9) The median time from the completion of briefing requirements by the parties to disposition by the Court.  

"(10) The number of oral arguments before the Court.
‘(1) The number of cases appealed to the United States Court of Appeals for the Federal Circuit.

‘(2) The number and status of appeals and petitions pending with the Court and of applications described in paragraph (3) as of the end of such fiscal year.

‘(3) The number of cases pending with the Court for more than 18 months as of the end of such fiscal year.

‘(4) A summary of any service performed for the Court by a recalled retired judge of the Court.

‘(5) An assessment of the workload of each judge of the Court, including consideration of the time required for each judge for disposition of each type of case.

‘(b) The number of cases reviewed by the Court.

‘(c) The average workload of other Federal judges.

‘(d) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term ‘appropriate committees of Congress’ means—

‘(1) the Committee on Veterans Affairs of the Senate; and

‘(2) the Committee on Armed Services and the Committee on Veterans’ Affairs of the House of Representatives.

SEC. 502. TREATMENT OF STILLBORN CHILDREN AS INSURABLE DEPENDENTS UNDER SERVICEMEMBERS’ GROUP LIFE INSURANCE.

(a) Treatment.—Section 1965(10) is amended—

(1) by redesigning paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph (3):

‘(3) The Secretary of Veterans Affairs may suspend or terminate an action by the Secretary under subsection (a) to collect a claim against the estate of a person who died while serving on active duty as a member of the Army, Navy, Air Force, Marine Corps, or Coast Guard during a period when the Coast Guard is operating as a service in the Navy if the Secretary determines that, under the circumstances applicable with respect to the deceased person, it is appropriate to do so.

(b) EQUIVALENT REFUND OF AMOUNTS COLLECTED.—The Secretary of Veterans Affairs shall provide to the estate of such person any amount collected by the Secretary (whether before, on, or after the date of the enactment of this Act) from a person who died while serving on active duty as a member of the Armed Forces if the Secretary determines that, under the circumstances applicable with respect to the deceased person, it is appropriate to do so.

SEC. 503. OTHER ENHANCEMENTS OF SERVICEMEMBERS’ GROUP LIFE INSURANCE COVERAGE.

(a) EXPANSION OF SERVICEMEMBERS’ GROUP LIFE INSURANCE TO INCLUDE CERTAIN MEMBERS OF INDIVIDUAL READY RESERVE.—

(1) The amendments made by subsection (a) of section 1967(a)(1)(C) are amended by striking ‘‘section 1965(10)(B)’’ in the matter preceding clause (i) and inserting ‘‘paragraph (B) or (C) of section 1965(10) of this title’’.

(2) The amendment made by subsection (a) of section 1967(a)(5)(C) is amended by striking ‘‘section 1965(5)(B)’’ in the matter preceding clause (i) and inserting ‘‘paragraph (B) or (C) of section 1965(5) of this title’’.

(3) The amendment made by subsection (a) of section 1969(g)(1)(B) is amended by striking ‘‘section 1965(10)(B)’’ in the matter preceding clause (i) and inserting ‘‘paragraph (B) or (C) of section 1965(10) of this title’’.

(b) REDUCTION IN PERIOD OF DEPENDENTS’ COVERAGE AFTER MEMBER SEPARATES.—Section 1968(a)(5)(B)(ii) is amended by striking ‘‘120 days after’’.

(c) AUTHORITY TO SET PREMIUMS FOR SURVIVING SPOUSES WHERE DECEASED REMARRIED AFTER DEATH OF DECEASED.—Section 1973 is amended by inserting ‘‘and veterans’ Group Life Insurance under this subchapter’’.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 504. CONFORMING AMENDMENTS.

(a) Section 1967(a)(5)(C) is amended by striking ‘‘a surviving spouse who had a subsequent remarriage’’ and inserting ‘‘and ‘surviving spouse who had a subsequent remarriage’’.

(b) Section 1969(g)(1)(B) is amended by striking ‘‘subparagraph (B) or (C) of section 1965(5) of this title’’ and inserting ‘‘paragraph (B) or (C) of section 1965(5) of this title’’.

(c) The amendment made by subsection (a) of section 1967(a)(5)(C) is amended by striking ‘‘section 1965(5)(B)’’ and inserting ‘‘paragraph (B) or (C) of section 1965(5) of this title’’.

(d) The amendment made by subsection (a) of section 1969(g)(1)(B) is amended by striking ‘‘paragraph (B) or (C) of section 1965(5) of this title’’ and inserting ‘‘paragraph (B) or (C) of section 1965(5) of this title’’.

(e) EFFECT OF SUBSEQUENT REMARRIAGE.—(1) The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall apply with respect to Servicemembers’ Group Life Insurance coverage for an insurable dependent of a member, as defined in section 1965(10) of title 38, United States Code, that begins on or after the date of the enactment of this Act.

SEC. 505. THREE-YEAR EXTENSION OF AUTHORITY TO CARRY OUT INCOME VERIFICATION.

Section 5317(a) is amended by striking ‘‘September 30, 2008’’ and inserting ‘‘September 30, 2011’’.

SEC. 604. THREE-YEAR EXTENSION OF TEMPORARY ALLOCATION OF FUND FOR PERFORMANCE OF MEDICAL DISABILITY EXAMINATIONS BY CONTRACT PHYSICIANS.


The title was amended so as to read: ‘‘A Bill to amend title 38, United States Code, to improve and enhance compensation and pension, housing, labor and education, and insurance benefits for veterans, and for other purposes."

CONGRATULATING LATVIA ON 90TH ANNIVERSARY OF DECLARATION OF INDEPENDENCE

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be discharged from further consideration of S. Con. Res. 87, and that the Senate then proceed to its immediate consideration.

Mr. LEVIN. Without objection, it is so ordered. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows: Concurrent resolution (S. Con. Res. 87) congratulating the Government of Latvia on the 90th anniversary of its declaration of independence.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. LEVIN. Mr. President, I further ask unanimous consent that the concurrent resolution be agreed to, the
Whereas, on November 18, 1918, in the City of Riga, the members of the People’s Council proclaimed Latvia a free, democratic, and sovereign nation; 

Whereas, on July 24, 1922, the United States formally recognized Latvia as an independent and sovereign nation; 

Whereas Latvia existed for 21 years as an independent and sovereign nation and a fully recognized member of the League of Nations; 

Whereas Latvia maintained friendly and stable relations with its neighbors, including the Soviet Union, during its independence, without any border disputes; 

Whereas, during the last century under the Nazi and Soviet occupations, Latvia, Estonia, and Lithuania were forcibly incorporated into the Soviet Union in violation of pre-existing peace treaties; 

Whereas the 109th Congress resolved (S. Res. 35) that the Soviet occupation never accepted them to be “Soviet Republics”; 

Whereas, during the 50 years of Soviet occupation of the Baltic states, Congress strongly, consistently, and on a bipartisan basis supported a United States policy of legal non-recognition; 

Whereas, in 1991, the congressionally-established Kersten Commission investigated the incorporation of Latvia, Estonia, and Lithuania into the Soviet Union and determined that the Soviet Union had illegally and forcibly occupied and annexed the Baltic countries; 

Whereas, in 1992, and for the next nine years until the Baltic countries regained their independence, Congress annually adopted a Baltic Freedom Day resolution de-nouncing the Molotov-Ribbentrop Pact and appealing for the freedom of the Baltic countries; 

Whereas, in 1991, Latvia, Estonia, and Lithuania regained their de facto independence and were quickly recognized by the United States and by almost every other country in the world, including the Soviet Union; 

Whereas, in 1998, the United States and the three Baltic nations signed the U.S.-Baltic Charter of Partnership, an expression of the importance of the Baltic Sea region to United States interests; 

Whereas the 109th Congress resolved (S. Con. Res. 35 and H. Res. 28) that “it is the sense of Congress that the Government of the Russian Federation should issue a clear and unambiguous statement of admission and condemnation of the illegal occupation and annexation by the Soviet Union from 1940 to 1991 of the Baltic countries of Estonia, Latvia, and Lithuania, the consequences of which will be a significant increase in good will among the affected people”; 

Whereas Latvia has successfully developed as a free country, enshrines the rule of law, and developed a free market economy; 

Whereas the Government of Latvia has constantly pursued a course of integration of that country into the community of free and democratic nations, becoming a full and responsible member of the United Nations, the Organization for Security and Cooperation in Europe, the European Union, and the North Atlantic Treaty Organization; 

Whereas the people of Latvia cherish the principles of political freedom, human rights, and independence; and 

Whereas Latvia is a strong and loyal ally of the United States, and the people of Latvia share common values with the people of the United States: Now, therefore, be it Resolved by the Senate (the House of Representatives concurred), That Congress—

(1) congratulates the people of Latvia on the occasion of the 90th anniversary of that country’s November 18, 1918, declaration of independence; 

(2) commends the Government of Latvia for its success in implementing political and economic reforms, for establishing political, religious and economic freedom, and for its strong commitment to human and civil rights; 

(3) recognizes the common goals and shared values of the people of Estonia, Latvia, and Lithuania, the close and friendly relations and ties of the three Baltic countries with one another, and their tragic history in the last century under the Nazi and Soviet occupations; 

(4) calls on the President to issue a proclamation congratulating the people of Latvia on the 90th anniversary of the declaration of Latvia’s independence on November 18, 1918; 

(5) respectfully requests the President to congratulate the Government of Latvia for its commitment to democracy, a free market economy, human rights, the rule of law, participation in a wide range of international structures, and security cooperation with the United States Government; and 

(6) calls on the President and Secretary of State to urge the Government of the Russian Federation to acknowledge that the Soviet occupation of Latvia, Estonia, and Lithuania under the Molotov-Ribbentrop Pact and for the succeeding 51 years was illegal.

SIGNING AUTHORITY—S. 3406

Mr. LEVIN. Mr. President, I ask unanimous consent that Senator HARKIN be authorized to sign the duly executed copy of S. 3406, a bill to restore the intent and protections of the Americans With Disabilities Act of 1990.

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

ORDERS FOR WEDNESDAY, SEPTEMBER 17, 2008

Mr. LEVIN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 9:30 a.m. tomorrow, Wednesday, September 17, that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate proceed to a period of morning business for up to 1 hour, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the majority controlling the first half and the Republicans controlling the second half; that following morning business, the Senate resume consideration of S. 3001, the National Defense Authorization Act; further, that all time in adjournment, recess, and morning business count postcloture.

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

PROGRAM

Mr. LEVIN. Mr. President, cloture was invoked this afternoon and the managers of the bill continue to work through filed amendments. We expect to complete action on the Defense authorization bill during tomorrow’s session and rollocall votes are possible throughout the day.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. LEVIN. If there is no further business to come before the Senate, I ask unanimous consent that it stand adjourned under the previous order.

There being no objection, the Senate, at 6:51 p.m., adjourned until Wednesday, September 17, 2008, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate:

BILL NELSON, OF FLORIDA, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SIXTY-SECOND SESSION OF THE UNITED NATIONS; 

ROB COOKER, OF TENNESSEE, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SIXTY-THIRD SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS; 

ANTHONY R. GOIA, OF NEW YORK, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SIXTY-THIRD SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS; 

KAREN ELLIOTT HOUSE, OF NEW JERSEY, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SIXTY-THIRD SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS;

DEPARTMENT OF STATE

HUAN YANG, OF CALIFORNIA, TO BE A MINISTER COUNSELOR OF THE DEPARTMENT OF STATE, AMBASSADOR TO THE PEOPLE’S REPUBLIC OF CHINA, AND REPRESENTATIVE TO THE UNITED NATIONS IN GENEVA, SWITZERLAND, WITH THE RANK AND PAY OF AMBASSADOR, TO SERVE AS THE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS IN GENEVA, SWITZERLAND, AND AS THE PRESIDENT OF THE UNITED NATIONS GENERAL ASSEMBLY; 

KAREN ELLIOTT HOUSE, OF NEW JERSEY, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SIXTY-THIRD SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS;

ANTHONY R. GOIA, OF NEW YORK, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SIXTY-THIRD SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS;

KAREN ELLIOTT HOUSE, OF NEW JERSEY, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SIXTY-THIRD SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

ANNE K. DAVIES, OF MASSACHUSETTS, TO BE AN ATTORNEY AND SPECIAL COUNSEL TO THE COMMISSIONER OF PERSONAL INCOME TAX OF THE COMMONWEALTH OF MASSACHUSETTS, TO SERVE AS COMMISSIONER OF PERSONAL INCOME TAX OF THE COMMONWEALTH OF MASSACHUSETTS, TO SERVE AT THE PLEASED DISCRETION OF THE GOVERNOR;
The following officers for regular appointment to the grade indicated in the United States Army Veterinary Corps under title 10, U.S.C., sections 531 and 306:

To be captain

ROBERT P. BRANC
FREDDIE D. CONLEY
BRETT A. CONTENT
STEVEN J. CRAIG
SCOTT E. DOUGLASS
MICHAEL R. HART
DONALD W. JILLSON
JOHN KOEPFEN
RONALD J. KRAEMER
MARILIA A. LLOYD
ANDREW S. MCKINLEY
ROBERT T. NEWTON
CHARLES R. POLK
STEVEN H. POPES
ALAN L. REAGAN
SCOTT D. RIEFSCHMIED
CHRISTOPHER E. RIEFSCHMIED
HERMANN F. TAMIIN

The following officers for regular appointment to the grade indicated in the United States Army Medical Service Corps under title 10, U.S.C., sections 624:

To be major

JASON C. CHRISTENSON
STEPHEN L. CHRISTIAN
ERIC P. CHRISTIANSEN, JR.
MARC S. CICHOWICZ
ADAM D. CLARK
WILLIAM J. CLARK
ERIC S. CLARKE
JARED L. CLINGER
ANDY R. CLOCKERS
MICHAEL P. CONELLY
FRANKIE C. COCOLEAGUE
KIM M. COHEN
ADAM J. COLLINS
CLAIR COLLINS
JULIO COLONSONOZALEZ
DAVID S. COOK
JAMES D. COOK
RICHARD M. CORPUS
BRIAN M. COZINS
MICHAEL L. CRIBB, JR.
DANA E. CROW
STEPHEN M. CROW
ANTHONY E. CRUTCHFIELD
LANICE J. CURVER
ELIZABETH R. CURTIS
IVAN W. DAECERS, JR.
JOHN Q. DANG
PAUL B. DAVIS
RANDALL E. DAVIS, JR.
WILLIAM D. DAVIS
JUSTIN E. DAVIS
JEAN A. DEAKYNE
SAUL D. DECKER
VICTOR M. DIAZ III
TIPPENRY B. DIMITRY
MICHAEL D. DOLOGE
BRIAN T. DONAHUE
JOHN C. DOSS
ANTHONY R. DOUGLAS
EMANUEL M. DOWLING
GERALD J. DUKAS
THOMAS L. ELISON
STACY M. EYENST
ANDREA M. EYENST
MICHELLE E. EYENST
PATRICK C. EVANS
CHARLEY R. FANEL
RYAN J. FENG
GREGORY A. FEND
KIMBERLY A. FIERGUSON
DAWN M. FICK
ALAIN G. FISHER
MARC J. FLEURANT
CASSANDRA N. FORRESTER
CHRISTOPHER L. FOSTER
MISTI L. FRODDY
JAMES K. GAUNT
ALEX M. GALESI
OMAR GARCIA
BONSAO J. GARCIA
VINCENTE GARCIA
GEERTEN J. GARDNER
ANNETTE L. GARRICK
WILLIAM A. GARRIS
CHAR GAYLES
JAMES J. GEISLAKER
JUSTIN B. GERKEN
MATTHEW E. GILES
ERIN M. GIULIANI
TENNILLE L. GLADDEN
MATTHEW M. GOMEZ
ANDREW E. GONZALEZ
MARIO A. GONZALEZGONZALEZ
ERIC M. GOULCHTHOMPSON
ROBYN A. GRAHAM
JEREMY A. GRANDE, JR.
MIRANDA R. GRAY
REIA M. GREAVES
JESSE K. GRIFFITH III
ADAM M. GRIM
ROBERT P. GRIMMING
CHARLES G. GRIKOWSII
DOUGLAS E. GUARD
DANIEL E. GUNTER
STEVEN D. GUTIERREZ
THOMAS W. HAJA
CHARLES E. HALL
TODD C. HANKS
ANDRELL R. HARDY
KEVIN M. HAMMOND
DARREN W. HAMM
JASON J. HANSFORD
JEREMY A. HARDY
MICHAEL T. HEALY
KANNNEROBINEDLAMANN
SCOTT E. HILMOOR
TRACIE M. HINNERY
SHEILA L. HINTON
BROOK E. HISS
BONTARO R. HUSSAR
LUCAS S. HIGHTOWER
CHRISTOPHER M. HILL
WILLIAM S. HOLLANDER III
DAVID L. HOSLEY
JOHN A. HOTTEN
CATHERINE S. HOWARD
CHRISTOPHER S. HOWARD
LONNIE B. HUSKIN
ANGELA B. HUTSON
JEFFREY J. IGNATOWSKI
SEAN P. IMB
DONNA L. INGRAM
JEFFREY J. JARLONSKY