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Senate

The Senate met at 11:30 a.m. and was called to order by the Honorable KIRSTEN E. GILLIBRAND, a Senator from the State of New York.

PRAYER

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

Let us pray.

Eternal God, who reads our hearts and knows our motives, You are the source of our being and the goal of our striving, hallowed be Your Name. Inspire our Senators to keep within the grasp of Your firm hands the threads of this day's words and deeds. May they seek Your will throughout this day and permit You to transfigure and redeem even their disappointments and setbacks. As they face perplexing issues of state, may the strength of each be as the strength of 10 because of pure motives. May all that our lawmakers do and are today be so obviously an expression of Your truth that they can be confident of receiving the smile of Your approval.

We pray in Your sacred Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable KIRSTEN E. GILLIBRAND 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 assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 29, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable KIRSTEN E. GILLIBRAND, a Senator from the State of New York, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mrs. GILLIBRAND thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Madam President, following leader remarks, the Senate will be in morning business until 1:30 today. Senators are permitted to speak during that period of time for up to 10 minutes each. Following that morning business, the Senate will resume consideration of the Defense appropriations bill.

At 4:30 today, the Senate will turn to executive session to debate the nomination of Jeffrey Viken to be U.S. district judge for the District of South Dakota. At 5:30 today, we will vote on the confirmation of that nomination.

DEFENSE APPROPRIATIONS

Mr. REID. Madam President, this afternoon we will begin work on the Defense appropriations bill, as I announced. The bill provides $636 billion in new discretionary authority for the Department of Defense, including more than $128 billion in funding for overseas contingency operations.

This is a good bill. It provides funding to grow the Army by 22,000 soldiers, provides $108 billion for procurement of new equipment that our men and women in the military badly need as a result of the equipment having been damaged, destroyed, and worn out in Iraq and other places. It also provides for a modification of tactical vehicles to better protect our forces in battle.

In Nevada, there are significant contributions being made, as we speak, to the wars in Iraq and Afghanistan, with more than 700 Nevada Guard men and women in combat today. Because the desert terrain in Nevada is similar to that in Iraq and Afghanistan, many of our Nation's warriors prepare for their deployment in Nevada. The Naval Air Station in Fallon, in northern Nevada, is the home to the Navy's preeminent strike and air warfare center, which includes the Navy Fighter Weapons School, better known as Top Gun. Naval Air Station Fallon also houses the Strike Warfare Center and the Carrier Airborne Early Warning Weapons School.

If you are a Navy fighter pilot, the only training that allows you to have, in effect, a Ph.D. in flying the Navy's top fighter planes is going to Fallon. Hawthorne Ammunition Depot has been in existence since the late 1920s as a result of a huge explosion of an ammunition facility in New Jersey. Since the late 1920s, this base—in very arid, dry, north-central Nevada—serves as the staging area for conventional bombs, rockets, and ammunition, a role it has filled since World War II.

Creech Air Force Base, located about 35 miles north of Las Vegas, employs the combat-ready Unmanned Aircraft System or what we call the drones. It is known as the Joint Unmanned Aircraft System Center of Excellence. It is from that facility that the strikes take place in Iraq and Afghanistan; that is where the people on the ground actually do the work that allows these vehicles to do their damage, wherever they are designated to go.

Finally, Nellis Air Force Base, outside Las Vegas, home of the first dedicated air warfare and later air-ground training facility, continues to provide advanced air combat training for U.S. and allied forces. This is the home of the Thunderbirds.

The fiscal year ends tomorrow. We need to pass this Defense bill to ensure

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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these men and women in uniform—our soldiers, marines, sailors, air men and women—have every resource they need to successfully carry out their mission. Whether stationed in Nevada or on one of our many bases around the world, all America's troops are depending on us to do something and do it quickly.

The managers of this bill, Senators INOUYE and COCHRAN, were here last Thursday and Friday. They are back this afternoon, ready to complete action on this legislation. This is an extremely important piece of legislation. The Senate needs to act on it very quickly so we can get to conference and minimize the time the Department of Defense has to operate on a stop-gap continuing resolution.

I hope people who have amendments to offer will offer them. We have already had 2 days to offer amendments. We have two of the most experienced managers in the Senate with Senators INOUYE and COCHRAN. I hope people would offer their amendments because we are not going to be on this bill all week. We are going to get off this as soon as we can.

RECOGNITION OF THE REPUBLICAN LEADER.

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

DEFENSE APPROPRIATIONS

Mr. MCCONNELL. Madam President, this afternoon we resume consideration of the Defense appropriations bill, and among our most immediate concerns are the protection of our troops and allies in Afghanistan and the success of our mission there.

The President's pick to lead our efforts in Afghanistan, GEN Stanley McChrystal, has made clear that more forces are necessary to accomplish the mission. And while the administration has not yet reacted to General McChrystal's report, in my view, the President must soon explain to the American people his reasons either for accepting The McChrystal Plan or for taking a different course.

Timing is important. A failure to act decisively in response to General McChrystal's strategy, and his anticipated request for additional forces, could serve to undermine some of the good decisions the President has made on national security.

That said, no President decides to commit troops lightly; all such decisions have far-reaching consequences. And that is why General McChrystal and General Petraeus should also come to Washington to explain to Congress and to the American people how their strategy will work. A counter-insurgency strategy will require a significant investment in time, troops, and resources. We need an explanation from our generals why that investment is needed.

The recent disruption of an alleged al-Qaida plot against America was a reminder to all of us of the seriousness and urgency of our efforts in Afghanistan. There should be no doubt that al-Qaida remains a serious threat. We cannot allow al-Qaida to establish a safe haven in the very place where it plotted and planned the 9/11 attacks.

The Taliban is gaining ground in Afghanistan. And our commanders in the field are in the best position to tell us what is required to complete their mission. General McChrystal says that without adequate resources, we will likely fail. In my view, we should listen to his advice. And hopefully, we will be able to get that advice in person in a timely manner.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to a period of morning business until 1:30 p.m., with Senators permitted to speak therein for up to 10 minutes each.

Mr. AKAKA. Madam President, I ask unanimous consent to speak as in morning business.

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

TROPICAL STORM KETSANA

Mr. AKAKA. Madam President, I rise today to stand in unity with our friends in the Philippines, China, and Vietnam, who are recovering from a terrible natural disaster.

Tropical Storm Ketsana struck the Philippines Saturday near Manila, causing massive flooding across the island nation. According to news reports, more than 80 percent of the capital city was submerged by the floods. Footage shows people being swept away by raging torrents, stranded on rooftops without supplies, or wading through waist-high flood water. According to the Associated Press, at least 284 people in the Philippines are confirmed dead, and nearly half a million people have lost their homes. As I speak, rescuers are searching for any remaining survivors. Family members are mourning lost loved ones. Millions of Filipinos across the country are struggling to find clean water, food, medicine, and shelter.

I commend the U.S. Embassy in Manila for pledging financial aid to help the Philippine government get life-saving necessities to people living in emergency shelters.

I am proud and honored by the work of members of the United States Armed Services. based in the Philippines. Their important mission is to provide counterterrorism training, but in the face of disaster, our troops have heroically conducted a number of life-saving rescues. Now they are helping to distribute supplies.

I also thank UNICEF for its large pledge of financial support.

In Hawaii, a number of organizations have stepped up to help. The Filipino Community Center, the United Filipino Council of Hawaii, and the Philippine Consulate General of Honolulu are among the organizations raising funds. I am encouraged by all those offering assistance in Hawaii and across the Nation.

Unfortunately, Ketsana's path of destruction was not finished at the Philippines. The storm picked up strength over the South China Sea, brushed against the coast of China's Hainan Island, and at full typhoon strength today slammed directly into Vietnam, where at least 23 people have been confirmed dead.

Laos, Cambodia, and Thailand are now bracing for heavy rains as the storm moves inland.

In the United States, we are no strangers to the horrors of tropical cyclones. We all remember the tragedy of Hurricane Katrina. It hit the gulf coast more than 4 years ago, but many areas are still recovering. In Hawaii, we will never forget Hurricane Iniki, which struck the island of Kauai in 1992, killing six people, destroying homes, hotels, and businesses, and leaving residents in some areas without electricity for months. It took parts of Kauai more than a decade to recover, and some historic buildings have never been rebuilt.

The United States stands with our friends in the Philippines, China, and Vietnam as they work to help the survivors. I want to thank everyone who has pitched in to help our friends recover from this terrible disaster.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

ENERGY SECURITY THROUGH TRANSPARENCY ACT OF 2009

Mr. CARDIN. Madam President, I take this time to bring to the attention of my colleagues legislation that has been introduced by Senator LUGAR,

the Energy Security Through Transparency Act of 2009. I have joined Senator LUGAR as a cosponsor, as have Senator SCHUMER, Senator WICKER, and Senator FEINGOLD.

Let me first tell you the problem this legislation is attempting to deal with; that is, there are these mineral-wealthy countries, countries that have oil, countries that have gas, countries that have valuable resources and minerals, and sometimes it is called a curse because in many of these countries there is horrible poverty, there are conflicts, open war, and very poor governance. The reason, in most cases, is corruption.

Quite frankly, there are individuals and groups and sometimes leaders within these poor nations that have wealthy resources who make their own individual deals with companies that extract these minerals and use them for their own purpose rather than sharing it, as they should, or using it, as they should, for the people of the nation in which these resources are located.

This is happening in so many countries in the world. It is in the interest of the United States to change the way these nations deal with their resources, their wealth. It is in our interest for many reasons. There are American businesses that would like to do business in these countries. They would like to help the economy of America by having business relationships with countries that have oil and gas and countries that have other mineral wealth. The problem is, they cannot do that because they cannot participate in corruption. It is against our laws for American companies to be coconspirators in corruption in another country, as it should be against our laws. It is also not very stable for them to do business in a country that is corrupt, that does not have the rule of law, that does not have the protections necessary to make sure their business relationships will be honored.

So for all those reasons, it is important for us to clean up the way these nations deal with their mineral wealth. It is also in our interests as far as energy security. I hope we will get into this debate in this Congress on the floor of this body: how we can become energy secure in America. But part of that is having a much more open relationship with those countries that have mineral wealth so we know the arrangements, so we know how the gas and oil and other minerals are entering into the international marketplace, so we can have an open policy in America to deal with our energy. It is important for this country, as I pointed out, for our economics, it is important for our national security to get this done. I might add, it is also going to be important for our environment, and we are going to have that debate, I hope, later this year in this body.

The international community has understood this. As a result of recognizing this problem, the international community came together with the Extractive Industries Transparency Initiative, known as EITI. I mention this because this international effort is to try to bring transparency in what a company pays for mineral rights in a country. So if you are a company, and you are paying a royalty to a nation for extracting its minerals, you need to disclose that so the citizens of that country have the basic critical information necessary to effectively monitor government stewardship of their natural resources.

That is basically what the EITI initiative is. It is all about transparency so companies and governance can be held accountable. I would think we all agree on that. I am proud of the role the United States Helsinki Commission has played on this issue. I have had the honor of chairing that Commission, and we have made the EITI initiative a major priority of our Commission's work because we know if we can get the mineral wealth to the people of that nation, so many of the issues we are charged to deal with on human rights, on the environment, on the economy, and on security can be dealt with, if we could just get that mineral wealth to the people of that nation. That is the reason why the Commission has had a very high priority in getting more participation by countries around the world in the Extractive Industries Transparency Initiative.

That brings me to the Energy Security Through Transparency Act of 2009 that Senator LUGAR has introduced and on which I have joined him as a cosponsor. It would suggest that the United States should be an implementing country of the EITI, that we should subject ourselves to those provisions, that we should lead by example by showing the United States of America believes there should be transparency in all the contracts we enter into resulting in extraction of mineral wealth from America. That would require the proper disclosure of payments from companies that use public lands for mineral extractions. That is the right thing to do. We should have been doing this all along. The public should know what is being paid by companies to take their wealth. This is Americans' wealth. It does not belong to any one of us. There should be transparency in it. It is the right thing to do.

Another part of this legislation would require companies that are listed on the U.S. Stock Exchange that are regulated by the Securities and Exchange Commission to disclose their payments to other countries for extraction of mineral wealth. In other words, we use the leverage of participating in the U.S. Stock Exchange—to be a listed security that Americans invest in—they have the right to know what that company is paying to other countries to extract mineral wealth. That at least gives us part of the disclosure necessary to find out what a country, which is so poor in the way it treats its people, is doing with the moneys that are being paid for the extraction of their national wealth. That would go a long way to helping us get transparency.

This legislation would urge the President to work with our partners in the G8 and G20 to promote similar efforts by the industrial nations of the world so we can get more credibility on the EITI, where passage of the EITI, joining the EITI becomes a matter of respectability for a nation internationally to make sure the contracts that are entered into with that government are shown to the people of that nation.

The bottom line is, the Energy Security Through Transparency Act of 2009 is asking the United States to take a leadership position in fighting corruption. Unfortunately, in too many of the developing countries of the world there is corruption. You have to deal with that corruption if you are going to be able to develop the type of relationships where that nation can deal with the poverty of its own people and work with us on our international priorities.

It helps developing countries. We give significant resources to date for humanitarian efforts in these nations. These nations should use their own wealth. This is a humanitarian issue. This is a human rights issue. It also provides economic opportunities for the people of that nation as well as the international community so they can participate in an open way to help that nation solve its economic problems.

It helps us with energy security globally. We cannot afford to waste the world's resources, as we look internationally at problems of energy security and global climate change. And it certainly helps in removing conflicts in many parts of the world. It is in our national security interests to make the world safer because it is usually the United States that is called upon first to deal with these conflicts.

For all these reasons, I urge my colleagues to take a look at the Energy Security Through Transparency Act of 2009, and to join us in moving this legislation forward because I believe it does present great hope for America to lead the world in helping these nations take advantage of their wealth in furthering U.S. international goals.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DORGAN. Madam President, I ask unanimous consent to speak in morning business for such time as I may consume.

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

MAJOR REFORMS FOR AMERICA

PRESCRIPTION DRUG PRICES

Mr. DORGAN. Madam President, today a news story had the title ''Leading Dem Plans to Blow Up Deal with Big PhRMA'':

A Senate Democratic leader is hoping to blow up the deal reached between the White House, drug makers and Senate Finance Committee Chairman Max Baucus by introducing an amendment on the floor to allow prescription drugs to be imported from Canada . . . et cetera.

There is a picture of me. I woke up this morning not thinking I was going to try to blow up anything. So I want to respond to this.

The question is, are those of us in this Chamber—a bipartisan group of 30 ranging from myself and Senator SNOWE as the lead sponsor, Senator STABENOW, Senator MCCAIN, and so many others who want to deal with this issue of fair pricing of prescription drugs—are we trying to blow something up? The answer is no. We have been trying for a long time in this Chamber to say we ought to have fair prescription drug pricing for the American people, and presently it is not fair.

This is a pill bottle that would contain Lipitor made by Pfizer. It is made in Ireland and then sent around the world. These two bottles are identical. One is red, one is blue, but had the same pill made by the same company put in the same bottle, this one shipped to Canada, this one shipped to the United States. This was $1.83 per tablet. That is what the Canadian consumers paid. Our consumers got to pay $4.48 per tablet. The same pill, same company, same bottle, different price—American consumers get to pay the higher price: $4.48 per pill compared to $1.83. It is not just Lipitor. That is the most popular cholesterol-lowering drug, widely taken. It is not just consumers of Lipitor, it is consumers—this happens to be Canada, but in here I could put France, Germany, Spain, Italy, and so on—it is that we are charged the highest prices in the world for brand-name drugs. Plavix is 73 percent higher than Canada. Boniva is 90 percent higher than Canada. Zocor is 103 percent higher than Canada. The list goes on—157 percent higher than they pay in Canada; 194 percent. It is just not fair.

One day, I sat on a hay bale at a little farm reception with a guy in his eighties. We sat there just talking. He said: My wife has been fighting breast cancer for 3 years. He said: For 3 years, we have driven to Canada to buy Tamoxifen, where she could buy it for 80 percent less than it cost her in North Dakota. That is the only way we could afford to pay for her drug to fight her breast cancer.

I am just saying that is not fair. So a group of us have been trying for a long time to pass legislation that allows the consumer freedom, the freedom to say: If this identical drug is being sold in Winnipeg, Canada, at a fraction of the price why can't our consumers in this country access that drug? Why don't they have the freedom to access that drug?

We have put out a piece of legislation that establishes much greater security for the safety of our drug supply with batch lots and pedigrees and everything that attaches to the security side, and then we say the American people can access the FDA-approved drugs in the countries that have the same chain of custody we have and that have the same kind of safety we have. Give the American people freedom. When they have that freedom to access those identical drugs at a lower price, sold at a fraction of the price in other parts of the world, then the pharmaceutical industry will be required to reprice those drugs in this country and give the American people fair pricing. That is just a fact.

I understand the White House negotiated with the pharmaceutical industry and came up with a plan by which the pharmaceutical industry over 10 years would fill part of what is called the doughnut hole. It is complicated to explain—the doughnut hole is a portion of the drug benefit in which the seniors have to pay their own drug costs. So I understand there was an agreement between the White House and the pharmaceutical industry to provide a discount to seniors in the donut hole, but nobody here was a part of that agreement.

The 30 or so of us who have been very strongly working to address this issue feel that when the health reform bill comes to the floor of the Senate, we intend to offer this amendment. If you don't deal with the increasing cost of prescription drugs when you try to put downward pressure on the cost of health care, in my judgment, you have failed. One of the fastest areas of cost increases has been prescription drugs. You are just going to leave that aside and say: Don't pay any attention to that; it doesn't matter. You can't do that. So we are trying to find a way to put some downward pressure on health care prices, and that must include putting some downward pressure on prescription drugs.

Let me be quick to point out that the pharmaceutical industry does important things. I don't wish them ill at all. I have done things that support them, including research and development tax credits and so on. But I am not interested in just waiting to allow them to continue to price their brand-name pharmaceutical drugs much higher to our consumers than they do to virtually every other consumer in the world. It is not fair.

When the health care reform bill comes to the floor of the Senate, I and my colleagues—Senator STABENOW, Senator MCCAIN, many others; a bipartisan group—intend to offer this bill as an amendment. It is not intended to blow up anything. We weren't a part of constructing anything; we are not going to blow up something. All we are going to do is demand that some common sense and basic fairness be established in the pricing of prescription drugs in this country. The way to do that is to give the American people the freedom to access this identical prescription drug in other areas where it is sold at a fraction of the price.

So, again, I wanted to disabuse anybody of the notion that we are going to blow up something. It is not true. I understand the pharmaceutical industry does not like what we are trying to do. They would like to have absolute pricing capability to price our drugs, in the case of Lipitor, at $4.50 a tablet when they sell it to others for less than half of that. I understand they would like that opportunity. On behalf of the American citizen, I say it is not fair. It is wrong, and it ought to change. If we pass the legislation we have introduced—a broad bipartisan group here in the Senate—it will give the American people freedom and force, in my judgment, a repricing toward fair prices for prescription drugs in our country.

Again, I wanted to make the point that we are not trying to blow up anything; we are trying to fix something that is wrong, and we are going to try to do that when the health care reform bill comes to the floor of the Senate.

We have been guaranteed an opportunity. Senator MCCAIN and Senator SNOWE and I intended to offer this earlier in the year, and as a result of that, the majority leader said: Don't offer it here, but I will make certain you have the opportunity on the floor of the Senate. That is why we will be in line right toward the front end of the health care reform bill to offer the amendment and have a debate.

FINANCIAL INDUSTRY REFORM

If I might, for a couple of minutes on another subject, say that I have spoken often about an issue on the floor of the Senate that goes back some decade or so on the matter of financial reform. I am not going to revisit all of that, which happened 10 years ago, but I do want to say this: I happen to think one of the first items of business this year should have been financial reform. I know others disagreed. I know the President wanted to do health care and some other items first. But I know the President and his team are working very hard now on financial reform. It is very important to get this right.

I wish to make a point. I have been reading recently about what is happening, and I would like to demonstrate what is happening.

Last fall, a whole series of things steered this economy into the ditch, the deepest economic downturn since the Great Depression.

So now, September 12, 2009, The New York Times, ''A Year Later, Little Change on Wall Street'':

One year after the collapse of Lehman Brothers, the surprise is not how much has changed in the financial industry, but how little. Not much change on Wall Street.

September 15, the Washington Post, ''The Wall Street Casino, Back in Business.'' Think of that. A year after the

almost unbelievable, deepest recession since the Great Depression, 1 year later, ''The Wall Street Casino, Back in Business.''

What are they talking about? Credit default swaps, derivatives, synthetic derivatives, you name it, all kinds of exotic products where they securitized everything. Everybody made a bunch of money, and on the way back from depositing money in their bank accounts one day, they discovered the economy collapsed because a lot of bad decisions had been made by people who were gambling.

September 8, the Washington Post, ''A Year After Lehman, Wall Street's Acting Like Wall Street Again.'' Not much change.

Wall Street Journal, August, last month, ''Bankers Play Dress Up With Old Deals'':

> Irresponsible securitization helped bring the financial system to its knees. Yet, as banks start to heal, little seems to have changed. Wall Street has quickly fallen back on old habits.

By the way, some of these FDIC-insured banks are still trading in derivatives out of their own proprietary account. They may just as well put a casino in their lobby or be playing Keno in their boardroom.

This is Steve Pearlstein, September 11: ''Wall Street's Mania for Short-Term Results Hurts Economy.''

Look, the reason I wanted to go through this is I agree not much has changed, and certainly not enough has changed. The question, it seems to me, as we deal with this issue of financial reform is, Will we address a central issue for me, and that is the too-big-to-fail issue? When we have decided as a matter of economic doctrine in this country that there are big companies that are too big to fail—too big to fail—to me, that is no-fault capitalism. We saw that last fall.

We had the Treasury Secretary come to the Congress, and he said, on a Friday: If you don't pass a three-page bill giving me $700 billion and do it in 3 days, there is eminent collapse of the American economy. The fact is, I didn't vote for the $700 billion because I didn't think he had the foggiest idea what he was going to do with that money.

The plain fact is as well that the very firms that did the kind of damage that steered this economy into the ditch—by the way, one of which the then-Treasury Secretary had previously worked for—dramatically expanding leverage; engaging in unbelievable, sophisticated exotic products they couldn't even understand. But you didn't have to understand them as long as you were making a lot of money on them; securitizing almost everything; the scandal in subprime loans; paying massive bonuses to brokers who put mortgages out there called liar's loans, meaning people didn't have to describe their income in order to get a mortgage; and then securitizing the good with the bad and slicing and dicing as if you were cutting sausage and selling it to investment funds. So everybody was fat and happy, making all this money despite the fact they were creating this house of cards. And then the house of cards collapsed, and we had all of these firms with dramatic leverage and exposure. Then we were told: You know what, you have to bail them out. They are too big to fail. The American taxpayer has to come out and open their pocketbook and provide the funds because these companies are too big to fail.

The fact is, when we discuss financial reform, there is too little discussion about this right now. All the discussion we see are these stories: ''Wall Street is Back in Business Again''; ''Banks Still Trading in Derivatives on Proprietary Accounts.'' They might as well just put up a blackjack table in their lobby. Nothing is changing.

So the question is, when we get to this point—and it is very soon, I hope—will we seriously address the doctrine of too big to fail. If we don't, we will go down exactly the same road and, mark my words, we will find the same ditch once again for this economy. We must address this issue of too big to fail. Some of the too-big-to-fail institutions got a lot of TARP funds from the American taxpayer. And by the way, they have gotten bigger now—too big to fail, and now they are too bigger to fail, I guess. It doesn't sound like good English to me. But too big to fail is a problem, so you make them bigger. It makes no sense.

This has to be a centerpiece in our discussion going forward. Are we going to continue to have no-fault capitalism where some of the biggest financial institutions in this country are engaged in gambling, trading in derivatives on their own financial accounts in a bank, while the bank is FDIC insured? Are we going to continue to allow that, or are we finally going to decide that this doctrine of too big to fail has to be addressed along with the other issues? Are we going to securitize everything? Are we going to continue to allow this unbelievable expansion of leverage? All of these are important questions.

At the end of the day, to me, the question of the doctrine of too big to fail is overriding. We must end that proposition. It is not just me, there are a lot of good economists who believe this must be a part of our financial reform.

My hope is that in the coming month or so following the discussion on health care reform, we turn to financial reform. I am going to be on the floor talking again about the doctrine of too big to fail and about the Federal Reserve Board's notion of what that doctrine means and what their responsibilities are.

I yield the floor, and I make a point of order that a quorum is not present.

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

The legislative clerk proceeded to call the roll.

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

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

Mr. ALEXANDER. How much time remains on the Republican side?

The ACTING PRESIDENT pro tempore. The time is not divided.

Mr. ALEXANDER. Madam President, I ask unanimous consent that we be permitted to engage in a colloquy for up to 20 minutes.

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

HEALTH CARE REFORM

Mr. ALEXANDER. Madam President, all of us were home in August. It was a pretty good thing we were, because the people of the United States had a lot to say to us about the health care bill. I think President Obama was very correct when he said the health care reform bill is a proxy for the role of Federal Government in our everyday lives.

I think that is what we are debating here. On the one side, we have an effort by the majority and the President to do this massive, comprehensive health care reform with thousand-page bills and White House czars and trillions in spending and debt. That is on the one side. On the other side we have Republicans saying we want health care reform, but let's focus on reducing costs to each American who has a health care policy—that is 250 million of us—that is why people are showing up at town meetings; it is not some abstract thing—and reducing costs to our government, because we know that $9 trillion more in debt is coming.

Mr. McCAIN. Will the Senator yield for a question?

Mr. ALEXANDER. Yes, I will.

Mr. McCAIN. First, concerning the costs, how do we know what the cost is if we don't have legislative text? I think all of us have been around here long enough—we have talked a lot about the 72 hours that I absolutely think we need. The text should be online so that every American—not just the 100 of us who are fortunate enough to be here—can read it. Everybody should have the right to know what a fundamental reform of health care in America is all about, and they should be able to read the legislation if they want to.

Just as importantly, I ask my friend, has he seen any legislative text anywhere? Is it true that the Finance Committee is moving forward with legislation regarding which there is no legislative text? And by the way, we find out now, according to the Wall Street Journal, Mr. Barthold noted in a followup letter that the willful failure to file; that is, to take the government option, would be punishable by a $25,000 fine or jail time under a section of the bill.

I wonder how many Americans are aware of that. In fact, I have to tell my

friend from Tennessee, I was unaware of it. So if we are unaware of it, should we not have legislative text so that Americans know what is being legislated in the Senate Finance Committee; and second, shouldn't it be on line at least 72 years so everybody would know about it?

Mr. ALEXANDER. The Senator is right. He and I and the Senator from Georgia are on the HELP Committee. We worked and we spent many hours in June and July marking up that version of the health care bill. We finished our work about July 15. That bill was 839 pages. It wasn't even presented to us until early in September, and we still don't know what it costs. I wonder if the Senator from Georgia heard much about reading the bill and how much it costs.

Mr. ISAKSON. The Senator from Arizona and the Senator from Georgia and I all sat through 67½ hours of markup in the HELP Committee on an 839-page bill, which was not scored and had 3 titles blank and they are still blank. We didn't have text during that debate on three titles within that bill, and what they are developing in the Finance Committee today, as I understand it, is concepts. The language is somewhere that we have not yet seen. This is too important for us to guess on and to take a chance on. It is most important that Congress know precisely what it is doing.

Mr. ALEXANDER. Maybe the Senator from Georgia and the Senator from Arizona know more about this than I do, and they are debating concepts but they are getting down to specifics. I saw in a morning newspaper that Nevada was somehow miraculously taken care of in the provisions for Medicaid expenses. We have had Governors, both Democrats and Republicans, here saying if you are going to expand on Medicaid in our State, pay for it. What happened in Nevada?

Mr. MCCAIN. I say to my friend from Tennessee, first, it is clear that the Medicaid cost increases to the States will be incredibly large. In the original version of the bill, according to media reports, the State of Nevada would have, along with every other State, a significant Medicaid expense. So somehow now the legislation has been changed, again, according to media because—excuse me, the concept has been changed because we don't have legislative language—that 4 States would then have 100 percent of their Medicaid costs assumed by the Federal Government for as long as 4 or 5 years. That is what goes on with the laws and sausages business here. I ask the Senator again, do you—first, I ask unanimous consent that the editorial entitled ''Rhetorical Tax Evasion'' in the Wall Street Journal this morning be printed in the RECORD.

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

[From the Wall Street Journal, Sept. 29, 2009]

RHETORICAL TAX EVASION

President Obama's effort to deny that his mandate to buy insurance is a tax has taken another thumping, this time from fellow Democrats in the Senate Finance Committee.

Chairman Max Baucus's bill includes the so-called individual mandate, along with what he calls a $1,900 ''excise tax'' if you don't buy health insurance. (It had been as much as $3,800 but Democrats reduced the amount last week to minimize the political sticker shock.) And, lo, it turns out that if you don't pay that tax, the IRS could punish you with a $25,000 fine or up to a year in jail, or both.

Under questioning last week, Tom Barthold, the chief of staff of the Joint Committee on Taxation, admitted that the individual mandate would become a part of the Internal Revenue Code and that failing to comply ''could be criminal, yes, if it were considered an attempt to defraud.'' Mr. Barthold noted in a follow-up letter that the willful failure to file would be a simple misdemeanor, punishable by the $25,000 fine or jail time under Section 7203.

So failure to pay the mandate would be enforced like tax evasion, but Mr. Obama still claims it isn't a tax. ''You can't just make up that language and decide that that's called a tax increase,'' Mr. Obama insisted last week to ABC interviewer George Stephanopoulos. Accusing critics of dishonesty is becoming this President's default argument, but is Mr. Barthold also part of the plot?

In the 1994 health-care debate, the Congressional Budget Office called the individual mandate ''an unprecedented form of federal action.'' This is because ''The government has never required people to buy any good or service as a condition of lawful residence in the United States.''

This coercion will be even more onerous today because everyone will be forced to buy insurance that the new taxes and regulations of ObamaCare will make far more expensive. Too bad Mr. Obama's rhetorical tax evasion can't be punished by the IRS.

Mr. MCCAIN. This says:

Chairman Max Baucus's bill includes the so-called individual mandate, along with what he calls a $1,900 ''excise tax'' if you don't buy health insurance. (It had been as much as $3,800. . . .)

So American small businesses, which are hurting more than any other group of Americans today, the creators of jobs—are now facing a $1,900 excise tax. By the way, the President, in response to George Stephanopolos, said there was no tax engaged here. I wonder how many Americans are aware of that and how many Americans have had the opportunity to know exactly not only what the costs to the Federal Government and the respective States are, but the costs to the individuals who are struggling to make it in America at a time of almost unprecedented unemployment?

Mr. ALEXANDER. That is a very good point. The Senator from Georgia was in small business for many years before he came to the senate.

Mr. ISAKSON. Yes, I ran a small real estate company for 22 years. We tried—myself and other distinguished Senators—on the floor to pass small business health reform 3 years ago which would have made more affordable and accessible health care to those independent contractors, the small business people. It was rejected and we could not get a cloture vote.

Mr. ALEXANDER. May I interrupt for a moment? I often hear it said that you Republicans are not for health care too much. The difference is we have a little more humility than to try to take on the whole health care system at once and fix the whole world. We are ready to go step by step, and that is one of the most important steps—to allow small businesses to pool their resources and offer health care to their employees. I think the estimate is it would add maybe a million new people who could be insured that way.

Mr. ISAKSON. Under outside estimates—not mine—of the 47 million alleged uninsured, up to 16 million would have access to insurance because of associated health plans and small business reform. That is a third of the uninsured.

Mr. MCCAIN. My friend from Tennessee brings up a good and an important point about some saying that Republicans have no plan. The fact is that the Republicans have no plan for the government to take over the health care system in America. That is what it is. What are we for? We are for going across State lines so that these small businesses and individuals—and the Senator from Georgia used to be one of them—can get the health insurance policy of their choice. Why should they be restricted to the State they are in when perhaps there are minimum requirements for those health insurers residing in that State for coverage, which they neither want or need, and it may be in another State. Why don't we allow small business people to pool their assets together and negotiate with health insurers across America for the best policy they can get? And we are for medical malpractice reform and medical liability reform. We know doctors prescribe time after time, to protect themselves, unneeded and unnecessary procedures and tests. We all know that. That is in tens if not hundreds of billions of dollars. We are for medical malpractice reform. Where is it in any bill that has been proposed by the other side?

We want outcome-based treatment. We want an individual who has a certain chronic disease to be treated on the basis of long term. We want Americans who have preexisting conditions to have a risk pool they can go to or where risk pools would be established so they can get health insurance, and insurers will bid on those people with so-called preexisting conditions, so that every American can have affordable and available health insurance. We are for that. We are for medical malpractice reform. We are for going across State lines to get a policy of your choice. We are for outcome-based care. We are for taking on the drug companies that have cut an unholy deal with the administration, which

will give them the obscene profits, and the lobbyists, who make over a million dollars. We want to be able to import drugs from Canada that are cheaper for the American people. We want competition, as there is in Medicare Part D, for these patients who need it, who don't have health insurance.

So we are for a number of things, but we are not for a government takeover of the health care system. So the next time we read that the Republican party does not have anything they are for, then they are not paying attention. There is more that we are for, but it has to do with competition and with availability and with affordability of health care in America, not a government takeover. We have seen that movie before in other countries.

Mr. ALEXANDER. As I listen to the Senator, I wonder if the Senator from Georgia is having the same impact. Every single step he said Republicans are for, whether it is getting rid of runaway junk lawsuits, going across State lines to buy insurance, whether it is allowing small businesses to pool resources, or incentivizing prevention and wellness, they are all focused on reducing costs.

I ask the Senator from Georgia, I thought this was supposed to be about reducing costs for health care premiums and costs to our government; but it seems to me we are talking about more billions and more debt and more spending and taxes.

Mr. ISAKSON. Those are the two things Republicans don't want, which is more debt to bankrupt our children and grandchildren and more taxes. Robert from Loganville was on my teletown hall meeting a week ago in Georgia. We were talking about the pay-fors. He said, ''Senator, I want to ask you a question. The administration keeps talking about there being a half billion dollars of waste, fraud, and abuse in Medicare. If that's true, why haven't you saved it instead of using it to save against a national health care?''

That is precisely right. The pay-fors they are talking about to keep us from going into debt are moneys that may or may not be there. They involve taxation and raising taxes on small businesses. Those are the things we don't want to do as Republicans.

Mr. McCAIN. I ask the Senator from Georgia, do you believe, one, that small business people in America today are ready for an additional cost laid on them to provide health insurance for themselves and their employees? Should we not make it easier and less costly, rather than imposing a government mandate, which may have types of health care that they neither want nor need, or paying an ''excise tax,'' as is in Chairman BAUCUS's bill?

The second point I want to ask the Senator about, of course, is this whole issue of what should be the government's role in health care in America today. We freely admit—not only admit but appreciate the fact that Medicare is a government program. But we also appreciate that the costs of Medicare have skyrocketed to the point where we now have, by estimates, a $31 trillion unfunded liability. In other words, our kids and grandkids will not have Medicare 7 or 8 years from now unless we fix the issue of costs.

Mr. ISAKSON. The Senator is precisely right, because as of right now, Medicare goes broke in 2017. That is only 8 years from now. In this bill, part of the pay-fors is to raise the cost of Medicaid on the States to a level that would take Georgia's Medicaid payments in 2014 by State tax dollars to be from 12 percent to 20 percent of our State budget. That is not the way to run a railroad.

Mr. ALEXANDER. Going back to the point of the Senator from Arizona, I hear our friends on the other side say you have used scare tactics, saying there will be Medicare cuts. I ask the Senator, did I not hear the President say he was going to take a half trillion dollars out of Medicare for seniors? There are about 45 million seniors on Medicare and who depend on Medicare, and they will spend it on new programs. Is that not what I heard him say?

Mr. McCAIN. That is why there is a rising sentiment, particularly among seniors, against this plan, the one passed through the House and passed through our HELP Committee and is now being formulated. Our seniors and our citizens are a lot smarter than many times we give them credit for. They know you are not going to get $½ trillion in ''savings'' from Medicare without there being reductions in Medicare.

There are hundreds of billions of dollars of savings that can be enacted in Medicare, but why don't we start tomorrow or why didn't we start yesterday or why didn't we start at least at the beginning of this debate imposing those savings so we could have a delay in the year when Medicare goes broke?

Mr. ALEXANDER. May I ask the Senator, if there are savings in Medicare, shouldn't it be spent on Medicare?

Mr. ISAKSON. Absolutely.

Mr. McCAIN. That is an excellent point. But also the fact is to root out this waste, fraud, and abuse is going to take time and effort and it is going to require some pretty hard work on our part. But we need to change some of the fundamentals of the Medicare system in providing more competition in the form of prescription drugs, in the form of medical malpractice liability reform, in the form of more competition between drug companies for Medicare and Medicaid patients. These reforms we are advocating have to be enacted in order to bring down the costs of Medicare, Medicaid, and overall health care costs in America.

Look, it is obvious. The cost escalations that are bringing Medicare to a crisis are the same cost escalations everybody else in America is experiencing.

Mr. ISAKSON. A lot of them are based in defensive medicine, which is practiced because of runaway lawsuits and verdicts. The administration's most recent comment about tort reform, to which the Senator from Arizona referred, was they want to do a study. A study is not what we need. What we need is action. That is one of the biggest contributors to the rising cost of health care we have.

Mr. McCAIN. Or a demonstration project conducted by the Secretary of Health and Human Services who knows a lot about this, I admit, because I understand she was head of the Trial Lawyers Association for a number of years. I am sure that gives significant qualifications to the person who is tasked with this project.

Life is full of anecdotes and experiences we have. I was down in Miami at the Palmetto Hospital. I spoke to a surgeon there. By the way, they treat a very large number of people who have come to this country illegally. I asked the surgeon: How are you doing on making your insurance payments, your malpractice or medical liability insurance payments?

He said: I don't have a problem. I don't have it. I don't have it because I couldn't afford it and probably I am not going to get sued because if they sue me, they are only going to get everything I have, not what the insurance company has.

We are giving physicians and caregivers the untenable option of either paying skyrocketing malpractice insurance premiums—in some cases $200,000 a year for a neurosurgeon—or as this surgeon did and others have done: I am not going to have insurance. That is not an acceptable thing to do to physicians in America or anybody in America.

Mr. ISAKSON. The other consequence of that is the threat of it, and the cost of becoming a physician is driving young people to go into other professions. We are going to have a shortage of providers, not just in physicians but nurses and caregivers, if we have an overly regulatory system and an indefensible tort system.

Mr. ALEXANDER. The Senators from Arizona and Georgia have raised a number of questions that need to be answered. How much is the expansion of Medicaid going to cost States in State taxes? How much of the Medicare costs are going to cost people on Medicare? Are individual premiums actually going up instead of down, which is what the Congressional Budget Office said. Why is there not something for getting rid of junk lawsuits in the bill? Why don't we have a small business health insurance pool?

The point we made when we first started is if we are taking on 17 or 18 percent of the whole economy in another one of these 1,000-page-plus bills, why then do the Democratic Senators vote down the amendment to say that

the bill needs to be online for 72 hours so we and the American people can read it? Shouldn't we read the bill we are voting on, and shouldn't we know how much it costs before we start voting on it?

Mr. MCCAIN. The Senator is exactly right. Again, wouldn't it be nice for our constituents—by the way, many of them come to the townhall meetings with a sign that says ''Have you read the bill?''—to let them read the bill too. Wouldn't it be nice if every American citizen who wanted to could go online and read the legislation and give us their ideas and thoughts as to how we could make it better?

May I mention—I hate to keep coming back to this issue of medical liability—a PricewaterhouseCoopers study says defensive medicine could cost us as much as $200 billion annually. If we are interested in savings, why don't we go right at that? Do we need a demonstration project someplace around America? I don't.

May I mention one other point, and I would be interested in my colleagues' views on it. This proposal also levies new taxes on medical devices. Why in the world would we want to do that? Medical devices and the best technology in the world are developed in America, but they are very expensive as they are. Why would we want to levy new taxes on medical devices when we know very well that if the insurance company is paying for them, the insurance company passes on those increased costs to the insured, thereby increasing the cost of health insurance in America. Why would we want to do that?

Mr. ISAKSON. It is raising the cost to the consumer because a lot of those types of things that are being taxed are purchased discretionarily and are not covered. They are paid for out of the pocket of the consumer. When you tax the medical device, you are just raising the cost of the medical device to the consumer.

Mr. MCCAIN. What the other side is trying to do is expand government, expand coverage, and yet, at the same time, reduce costs. You cannot square the circle. That is why they keep bumping into—every time there is a new proposal and to make things more expansive and more available, they run into escalations in costs and how we are going to pay for it.

I believe our constituents, again, have figured it out—a reestimate of a $7 trillion to $9 trillion deficit over 10 years, a some $700 billion stimulus package that may have stimulated Wall Street but, frankly, in my view from being home a lot, has not stimulated Main Street and is not having an effect on unemployment in America, to say the least. The neighboring State of California now has 12.2 percent unemployment. They cannot get to where they want to go without increasing that deficit and debt burden that we are laying on future generations of Americans.

I wish they would sit down with us. I wish we could sit down together, start from the beginning, knowing what we know—we have all been well educated by this process—knowing what we know now, knowing what we can do to reduce health care costs in America and make it affordable and available. Unfortunately, as we watch the machinations going on in the Finance Committee, that has not happened yet.

Mr. ISAKSON. I completely concur with the Senator from Arizona and the Senator from Tennessee. There is common ground, but you have to be willing to find it. So far that has not been the case. When we get to that point, we can solve a lot of the American peoples' problems. Just ramming through something we cannot read, we cannot quantify, we cannot score is not the way to go about it.

Mr. ALEXANDER. If there is one point we would want to make, it is this. It is such an ambitious program. The stakes are so high. This is no abstract debate. The reason people are turning up at town meetings is because this is about their health care insurance and also whether your government is going to go broke in the next few years, dumping a lot of burdens on our children and grandchildren.

What we are saying is we need to read the bill and know how much it costs before we start voting on it. We need to read the bill. It needs to be online 72 hours. That is a modest request, it seems to me. That is a short period of time. Then we need to know how much it costs. Does it raise our premiums or lower them? Does it cut your Medicare, or does it not cut your Medicare? Does it increase the national debt, or does it not increase the national debt? We need to know the answers to those questions. It would be the height of irresponsibility for us to begin debating a bill that affects 17 percent of the economy at a time when our debt is going up so rapidly without having, one, read the bill and, two, knowing exactly what the nonpartisan Congressional Budget Office tells us every provision costs.

Mr. MCCAIN. Can I tell my friend, if the American people are able to know the details of this legislation, I think they would be surprised to know that the new taxes—the medical devices, the prescription drugs and other tax increases—they begin in the year 2010, 3 years before the provisions in the bill for ''reform'' are implemented. So for the next 3 years, the cost of health care and health insurance goes up due to the new taxes and fees, but the so-called reforms are not implemented—why did they do that?—so that the actual costs, as we cost it out over a 10-year period, are disguised by beginning the taxes and not implementing the reforms, which then the Congressional Budget Office can give a cost estimate which is less than, frankly, what it actually is if you put the reforms in at the same time as the tax increases.

That is a little complicated, but I think Americans need to know that.

Mr. ISAKSON. My only comment in closing is simply this: The Senator is exactly right. Once this horse is out of the barn, you can never put him back in. We have to get it right to begin with. We need to go back to the drawing board, have a bill we can read, and a bill we can afford.

Mr. ALEXANDER. I thank the Senator from Arizona and the Senator from Georgia. They said what we believe. We need to stop, start over, and get it right. Above all, we—it seems such a basic thing to say it is almost embarrassing to say it on the Senate floor—we need to make sure we read the bill before we vote on it, and we need to make sure we know what it costs before we vote on it. Those two things are minimum requirements.

From the Republican side, we want to reduce health care costs, and rather than try a comprehensive health care reform of the whole system, we would like to work step by step in the direction of reducing costs in order to regain the trust of the American people. Senator MCCAIN and Senator ISAKSON have outlined a series of steps ranging from eliminating junk lawsuits against doctors to allowing small businesses to pool their resources, all of which would help reduce costs. I thank the Senators.

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

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

The legislative clerk proceeded to call the roll.

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

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

DEFENSE APPROPRIATIONS

Mr. MCCAIN. I rise to address the issue of the Department of Defense Appropriations Act for fiscal year 2010, which is the pending business before the Senate.

The funding provided in this legislation is very crucial. We need to support our commanders as they lead operations in Afghanistan, Iraq, and elsewhere, and care for the men and women who are in the military, including making sure they are provided for, as well as our wounded warriors. But I also note with great concern and alarm, dismay, and even disgust that billions of dollars in wasteful earmarks, unrequested, unauthorized, have again found their way into this legislation. As I have said before, these are serious times, and we as a Congress are required to make serious decisions, tough decisions, that may go against the special interests.

I need not remind my colleagues that we are at war or that the national debt is growing ever larger. Recently, there was a reestimate of the deficit for the next 10 years from $7 trillion to $9 trillion. We are facing deficits of unprecedented proportions. Yet the spending

goes on here like, as some people have said, a drunken sailor. I do not use that phrase anymore because I never knew a sailor, either drunk or sober, with the imagination Members of Congress have, which is best epitomized in this bill, as I will point out in several provisions. We cannot afford the waste. We cannot afford it. It is our duty to fully support the funding for our national defense and ensure that each dollar we spend is spent wisely in delivery of the stated need and not on special interests.

The Appropriations Committee has provided $626 billion in total funding for the Department of Defense—$498 billion for the base budget and $128 billion for ongoing military operations in Iraq and Afghanistan. Interestingly, it is $3.9 billion less than the President's budget request, and the bill further reduces the Defense programs requested by the Pentagon to make room for $2.5 billion in C–17 cargo aircraft slated for termination by the administration and about $2.7 billion—I repeat, $2.7 billion—in earmarks and special interest items.

I have long talked about the broken appropriations process and the corruption it breeds. I remain deeply concerned over the damage done to our country and the institutions we are so proud to serve in by their continued abuse.

While we have made some progress on the issue in the last couple of years, we certainly have not gone nearly far enough. Legislation we passed in 2007 provided for greater disclosure of earmarks, and that was a good step forward. But the bottom line is, we simply do not need more disclosure of earmarks, we need to eliminate them. We need to eliminate them. We should adopt the practice that was the practice here for a long time, up until recent years, that we didn't appropriate unless it was authorized.

In the years that I have been here, I have seen a tremendous shift in the authority and responsibility from the authorizing committees to the appropriating committees and a commensurate rise in earmarks and corruption. I know my colleagues do not like to hear me use the word ''corruption,'' but we have former Members of Congress residing in Federal prison. We had a Congressman from California who used to list the appropriations he was able to get in one column and in the other column the amount of money he received for earmarking those appropriations. That is corruption.

It is not responsible for us to continue to load up appropriations bills with wasteful and unnecessary spending. Americans all over this country are hurting. People are losing their jobs, their savings, their homes. So what are we doing? We continue the disgraceful earmarking process, elevating parochialism and patronage politics over the true needs and welfare of this Nation. I will be pointing out during the course of this debate a number of examples of that corruption, which I think is really unacceptable to the American people. By the way, that is one of the reasons the American people have risen up in an unprecedented manner in demonstrations against the way we do business here in Washington.

So I want to be clear, disclosure is good. But it was not inadequate disclosure requirements which led Duke Cunningham to violate his oath of office and take $2.5 million in bribes in exchange for dolling out $70 to $80 million of taxpayers' funds to a defense contractor. It was his ability to freely earmark taxpayer funds without question.

A lot is said during campaigns. A lot of promises are made. Unfortunately, some are not kept. The President of the United States pledged during his campaign that he would work to eliminate earmarks. The Speaker of the House promised to ''drain the swamp.''

Just last month, the President of the United States spoke in Phoenix, AZ, to the Veterans of Foreign Wars. In that speech, the President's words were quite compelling about waste and porkbarrel spending in defense bills. In that speech, the President promised an end to ''special interests and their exotic projects,'' and he reaffirmed that he was leading the charge to kill off programs like the F–22, the second engine for the Joint Strike Fighter, and the outrageously expensive Presidential helicopter.

The President went on to say:

> If a project does not support our troops, we will not fund it. If a system does not perform well, we will terminate it. And if Congress sends me a bill loaded with that kind of waste, I will veto it.

If the President means those words, this legislation should be vetoed in its present form by the President of the United States.

He went on to say:

> We will do right by our troops and taxpayers.

He is right. We should do right by our troops and taxpayers.

The bill has at least $5.2 billion in programs the Pentagon does not need and did not ask for—$5.2 billion.

The President last month put on an all court press to terminate the F–22 program in the face of congressional determination to continue funding the production of the aircraft. So why was the President so adamant about terminating the F–22 while at the same time possibly giving a free ride to 10 unrequested C–17s in this bill at a cost of $2.5 billion? How can one differentiate between a fighter aircraft that the Pentagon says further production is unnecessary from a cargo aircraft that the Pentagon says the current fleet, coupled with those on order, is sufficient to meet the Pentagon's needs, even under the most stressing situations? Why has the administration, including the Secretary of Defense, been silent on $2.7 billion in Member-requested earmarks? These are questions for which I do not have a good answer.

What I do know is that the appropriators did not add $5.2 billion to the bill to pay for the unrequested additions but, rather, secured this additional funding by offsetting programs in other parts of the bill.

So what did the appropriators decide to cut to make room for most of these unrequested earmark and porkbarrel projects?

They reduced $900 million from the President's request for the Afghanistan Security Forces Fund at a time when the one thing we are in agreement on is that we need to increase the size of the capability of the Afghan Army and security forces. It is a key component of the U.S. strategy in Afghanistan. So they cut it by $900 million. Reducing funding in the account runs counter to our ground commanders' plan for the Afghan forces to assume a greater share of responsibility for security as quickly as possible.

Equally as incredible, the bill reduces over $3 billion in operations and maintenance accounts through direct cuts and cuts mandated in other provisions in the bill based on economic assumptions and excess cash balances.

The administration strongly opposes these cuts and in their Statement on Administration Policy said, ''These reductions would hurt force readiness and increase stress on the military people and equipment.''

This account is the lifeblood for our military. The operations and maintenance of our men and women in the military and the equipment they use is absolutely vital. So what did we do? We took $3 billion out of operations and maintenance and put it in those porkbarrel projects, including the C–17. The account provides for services with funds to carry out day-to-day activities such as recruitment and fielding of a trained and ready force, all military training and exercises, food, weapons, spare parts, equipment repairs, depot maintenance, ship overhauls, transportation services including aviation fuel, Navy and Marine Corps steaming days, civilian personnel management and pay, and childcare and family centers.

One thing in this debate about Afghanistan that almost everyone is in agreement on is that our equipment is wearing out and that we are way behind in the repair and replacement of spare parts, equipment—all that is necessary for our Active-Duty Forces and our Guard and Reserve, who are practically, for all practical purposes, Active Duty. And we are looking at—and I have guarded confidence that the President will agree to General McChrystal's and Petraeus' and Admiral Mullen's recommendation. We will need more money for operations and maintenance because we will be sending more men and women and equipment to Afghanistan. So what did they do? What is in this bill? A $3 billion reduction. Well, what is in its place? I will be going over some of the projects that are in its place.

One of the more egregious items in the legislation we are considering today is the addition of $2.5 billion for 10 C–17 Globemaster cargo aircraft.

First, let's have a little background.

Recognizing that the Department's total requirement for 180 C–17 aircraft has been well been exceeded for 3 consecutive years, the Bush administration had actively tried to close down the production line for the C–17s. Nonetheless, earlier this year, the House Appropriations Committee Defense Subcommittee, added eight more C–17s for $2.25 billion to the 2009 supplemental spending bill, a bill that is supposed to be used to fund the wars in Iraq and Afghanistan. The final version of that bill included all eight of these aircraft. When the subcommittee met later to consider the 2010 Defense appropriations bill, it went ahead and added three more.

This is a little hard to see, this chart, but it is an interesting one. These are the C–17s that were originally in the Air Force budget. These are the C–17s, in red, that have been added by Congress. Each year—each year—the Department of Defense and the administration have said: Enough. We have enough C–17s. Obviously, that has not been the case.

It brings us to where we are now—well in excess of requirements, continuing to spend billions of dollars for aircraft we do not need. Including the 8 C–17s in the 2009 supplemental, the Department has bought now a total of 213 C–17s. The original requirement was 180.

According to the most recent Statement of Administration Position, the administration ''strongly objects'' to the addition of $2.5 billion in funding for 10—count them: 10—unrequested C–17 airlift aircraft. The Department's own analyses show that the 205 C–17s in the force and on order, together with the existing fleet of C–5 aircraft, are more than sufficient to meet the Department's future airlift needs even under the most stressing conditions.

In no uncertain terms, Secretary Gates has stated that the military has no need to buy more C–17s. So here we are, my friends, with a $3 billion cut in operations and maintenance, which any observer, much less the administration, the Secretary of Defense, and the Joint Chiefs, says, is vital to continuing our operations and the well-being and protection of the men and women in the military, and we are adding $2.5 billion for more C–17s. What kind of a tradeoff is that?

Secretary Gates has stated the military has no need to buy more C–17s. While Secretary Gates called the C–17 ''a terrific aircraft''—and I agree—he stressed earlier this year that the Air Force and the U.S. Transportation Command ''have more than necessary [strategic airlift] capacity'' for airlift over the next 10 years. Nonetheless, continuing C–17 production would cost about $3 billion per year from 2010 onward.

In connection with the fiscal year 2010 budget request, the President not only requested no funding for additional C–17s but also recommended this program for termination. Particularly in light of today's financial constraints, continuing to spend billions of dollars for more C–17s we do not need is becoming increasingly unsustainable. For these reasons, I will be offering an amendment to strike the additional 10 aircraft.

Given how much our airlift capacity currently exceeds operational requirements, I see no reason why we should buy more of these aircraft—at a minimum, before key analyses on the subject, such as the Institute for Defense Analyses' review and the Department of Defense Mobility Capabilities and Requirements Study are completed.

I will be proposing an amendment shortly that I hope will correct this egregious action on the part of the Appropriations Committee. The men and women in the military, who are fighting and putting their lives on the line, deserve a lot better than that.

I want to talk for a few minutes about earmarks. The practice of earmarking is detrimental to the Department and, with increasing frequency, to Members themselves. The guilty pleas of former Members of Congress, congressional staffers, and lobbyists illustrate how earmarks have been used to corrupt the legislative process. Check the polls. The trust and confidence on the part of the American people in the Congress of the United States is at an all-time low, and deservedly so.

By my preliminary count, there are almost 700 unrequested earmarks in this bill, over 400 of which are not authorized in the fiscal year 2010 National Defense Authorization Act. That represents more than $1.3 billion in funding for unrequested, unauthorized, Member-interest items. It is unacceptable. It is the constitutional duty of Congress to provide the Department of Defense the resources it needs while providing the oversight our constituents demand. We have a fiduciary obligation to the American taxpayer, and every time we tuck pork into an appropriations measure, we shun that responsibility.

One of the great untold stories of earmarking is that the money, which is diverted to special-interest projects, would have otherwise been used to address the stated needs of our military services. The money does not come from anywhere but the taxpayers' wallets and purses. But the service chiefs, who are in the best position to advise Congress of their priorities, are routinely shortchanged so that Senators and Congressmen can fund their pet projects.

A sampling: $9.5 million is in this bill to fund research in Montana on hypersonic wind tunnels, called MARIAH—M-A-R-I-A-H. This self-licking ice cream cone has been with us, earmarked and unrequested, since 1998. The Air Force, leader in hypersonic testing and technology, lost interest in 2004, so appropriators moved the program to the Army. The Army has no official requirement for this capability and published a report in 2005 stating their disinterest in the program.

To date, the Army has no plans to fund the MARIAH wind tunnel effort, as they have stated in their budget documents. That has not kept the Congress from pouring more than $70 million into it—more than $70 million—with no discernible return. One group has done very well in the deal, however. Of course, I am referring to lobbyists, including Gage LLC, whose CEO, coincidentally, had been a senior staffer to an appropriator from Montana. I intend to offer an amendment to strike this earmark in the bill, and I can assure you, you will hear more from me on this.

We have spent more than $70 million on a project that has had no return, that the military has said they have no interest in pursuing.

Another earmark is $5 million to the battleship USS Missouri Memorial Association. This is a private organization which owns and operates this battleship as a museum in Pearl Harbor. I am aware that the association plans to put the Missouri in drydock and refurbish it, and also aware it was not part of the donation agreement that the Defense Department would pay for required maintenance.

I am all for Navy ships being placed in places where Americans can see and appreciate the great service and sacrifice of the men and women in the military, the Navy and Marine Corps in particular. The deal was that the Defense Department would not, that they would take care of the maintenance of it, that they would take care of whatever the needed expenses are. So here is $5 million.

Another earmark is $25 million for the National World War II Museum in New Orleans, to help pay for the construction of new facilities as part of a $300 million expansion. This privately funded museum opened in 2000 and, through the help of the Louisiana delegation, has already received $13 million in Department of Defense funds tucked into previous appropriations bills.

Again, if the members of the Appropriations Committee wish to go through the authorization process and have this project authorized, I would be more than willing to consider it.

Another appropriation is $13.8 million for five different earmarks pertaining to nano-tuber research. Of the almost 800 earmarks I mentioned earlier, hundreds are for high-tech research or devices. I ask my colleagues whether they are capable of weighing the merits of specific technologies they fund in this bill.

Another earmark is $20 million for a center at the University of Massachusetts ''dedicated to educating the general public, students, teachers, new Senators, and Senate staff about the

role and importance of the Senate.'' This center was neither requested in the President's budget nor authorized by Congress. Certainly a legitimate question should be whether $20 million should be appropriated for a project that has nothing to do with the defense of this Nation. It may be a worthwhile project. Why couldn't we get it authorized?

Another earmark is $10 million, as usual, to the University of Hawaii for a program called the Panoramic Survey Telescope and Raid Response System, Pan-STARRS. On the surface, this program seems like a reasonable need for the Air Force as a part of its Space Situational Awareness efforts. Unfortunately, the Air Force will not be getting much return on this investment since it will only be allowed to use the telescope 5 percent of the time.

Let's get that straight. The Air Force is paying $10 million so the telescope could be developed and maintained, and they are going to get to use it 5 percent of the time. In dollar figures, the Air Force pays $10 million to the university and receives $500,000 in return. What is more, the Air Force has not, in the 9-year life of this earmark, requested a single dollar for this program. So since 2001, the Air Force has been forced to spend more than $75 million of its budget allocation on a program it does not want—but might be able to use—only to be denied use 95 percent of the time.

I do not dispute that some of the earmarks listed in the bill have value. I am sure they do. But I protest the process by which Congress ignores priorities of the armed services so that Members can deliver tax dollars to their constituents for programs which may have nothing to do with the defense of our Nation, and at a time when we can least afford to misuse resources. We all know the economy has taken a beating over the last year. Unemployment is just under 10 percent, and the national debt is $11.8 trillion. So we are going to provide $20 million to a center with a purpose to extol the virtues of the Senate?

The issues we face as a nation require all of us to make sacrifices—all of us. It is about time we started setting an example.

In today's Washington Post is an article written by Jeffrey Smith, entitled ''Defense Bill, Lauded by White House, Contains Billions in Earmarks.'' Mr. President, I ask unanimous consent that article be printed in the RECORD.

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

[From the Washington Post, Sept. 29, 2009]

DEFENSE BILL, LAUDED BY WHITE HOUSE, CONTAINS BILLIONS IN EARMARKS

(By R. Jeffrey Smith)

Sen. Thad Cochran's most recent reelection campaign collected more than $10,000 from University of Southern Mississippi professors and staff members, including three who work at the school's center for research on polymers. To a defense spending bill slated to be on the Senate floor Tuesday, the Mississippi Republican has added $10.8 million in military grants earmarked for the school's polymer research.

Cochran, the ranking Republican on the Appropriations subcommittee on defense, also added $12 million in earmarked spending for Raytheon Corp., whose officials have contributed $10,000 to his campaign since 2007. He earmarked nearly $6 million in military funding for Circadence Corp., whose officers—including a former Cochran campaign aide—contributed $10,000 in the same period.

In total, the spending bill for 2010 includes $132 million for Cochran's campaign donors, helping to make him the sponsor of more earmarked military spending than any other senator this year, according to an analysis by the nonprofit group Taxpayers for Common Sense.

Cochran says his proposals are based only on ''national security interests,'' not campaign cash. But in providing money for projects that the Defense Department says it did not request and does not want, he has joined a host of other senators on both sides of the aisle. The proposed $636 billion Senate bill includes $2.65 billion in earmarks.

President Obama has repeatedly promised to fight ''the special interests, contractors and entrenched lobbyists'' that he says have distorted military priorities and bloated appropriations in the past. In August, he told a convention of the Veterans of Foreign Wars that ''if Congress sends me a defense bill loaded with a bunch of pork, I will veto it.''

But the White House instead sent a generally supportive message to the Senate about the pending defense bill on Friday, virtually ensuring that the earmarks will win final congressional approval. For the most part, the White House lauded the bill's proposed funding for the wars in Afghanistan and Iraq, as well as its cancellation of three programs that Defense Secretary Robert M. Gates has been particularly eager to kill this year: the F–22 fighter plane, a second engine for the F–35 fighter and a new presidential helicopter program.

The bill, however, would add $1.7 billion for an extra destroyer the Defense Department did not request and $2.5 billion for 10 C–17 cargo planes it did not want, at the behest of lawmakers representing the states where those items would be built. Although the White House said the administration ''strongly objects'' to the extra C–17s and to the Senate's proposed shift of more than $3 billion from operations and maintenance accounts to projects the Pentagon did not request, no veto was threatened over those provisions.

The absence of such a threat provoked Winslow Wheeler, director of a military reform project at the Center for Defense Information, to describe Obama's stance as ''too wimpy to impact behavior.'' Wheeler, who earlier criticized the House for approving a version of the bill that includes extra C–17 planes, $2.7 billion worth of earmarks and other projects that Gates dislikes, said that ''as a long-time Senate staffer who has read these documents for years, my interpretation of it is that the House-Senate conference will listen politely . . . and then do as it pleases.''

Senior Obama aides responded that the White House never sought to fix the problem of earmarks in one year. ''The president has been clear from Day One: He wants to change the way business gets done in Washington,'' Thomas Gavin, a spokesman for the Office of Management and Budget, said Monday. ''The results speak for themselves. Earmarks in the defense appropriations bills are down 27 percent in the House and 19 percent in the Senate. This is an important step forward in the president's drive to shape a government that is more efficient and more effective.''

Those figures are the most flattering the White House could have used: They refer to the number of earmarks in the bills, not total spending. Total spending on military earmarks in the Senate declined by only 11 percent from the $3 billion approved by Congress last year.

''Despite the fact that earmarks are down, there's still nearly 800 . . . for projects that rose to the top by dint of political power rather than project merit,'' said Ryan Alexander, president of Taxpayers for Common Sense. ''The president needs to take a harder line against waste and political gamesmanship, particularly in the defense bill, which is paying for two wars.''

There is, however, wide bipartisan support in Congress for diverting funds to political donors or home-state causes.

Sen. Daniel K. Inouye (D-Hawaii), chairman of the Senate Appropriations Committee, ran a close second to Cochran's $212 million in earmarks this year, having added 37 earmarks of his own worth $208 million, according to the tally by Taxpayers for Common Sense.

Almost all of Inouye's earmarks are for programs in his home state, and 18 of the provisions—totaling $68 million—are for entities that have donated $340,000 to his campaign since 2007. His earmarks included $24 million for a Hawaiian health-care network, $20 million for Boeing's operation of the Maui Space Surveillance System and $20 million for a civic education center named after the late senator Edward M. Kennedy.

''Many of my earmarks are intended to support investment in small businesses working to hone new and innovative technologies that will better protect and support our soldiers during a time when our nation is at war,'' Inouye said in a statement Monday.

In Cochran's case, the proposed earmarks would benefit at least two entities that hired his former aides. The manager of Mississippi operations for Colorado-based Circadence is R. Bradley Prewitt, whose biography on the company's Web site states that he was counsel and campaign manager to Cochran from 1997 to 2002. The University of Southern Mississippi, which would receive $10.8 million in Cochran earmarks, paid $40,000 to a firm that employs Cochran's former legislative director, James Lofton, to help lobby on defense appropriations, according to the firm's Senate registration.

''Senator Cochran takes his responsibilities on the Appropriations Committee very seriously,'' spokesman Chris Gallegos responded Monday. ''Senator Cochran does not, and never will, base his decisions on campaign contributions.''

Mr. MCCAIN. Quoting from the article:

President Obama has repeatedly promised to fight ''the special interests, contractors and entrenched lobbyists'' that he says have distorted military priorities and bloated appropriations in the past. In August—

As I mentioned—

he told a convention of the Veterans of Foreign Wars that ''if Congress sends me a defense bill loaded with a bunch of pork, I will veto it.''

Mr. President, this bill fits that description.

It goes on:

The bill, however, would add $1.7 billion for an extra destroyer the Defense Department did not request. . . .

It talks about the C–17s and ''the Senate's proposed shift of more than $3 billion from operations and maintenance accounts to projects the Pentagon did not request, no veto was threatened over those provisions.

I want to say again, I am sure the managers of this bill will somehow try to justify this transfer out of operations and maintenance into the C–17. It is not a credible argument. It is not a credible argument.

The absence of such a threat provoked Winslow Wheeler, director of a military reform project at the Center for Defense Information, to describe. . . .

Senior Obama aides responded that the White House never sought to fix the problem of earmarks in one year. ''The president has been clear from Day One: He wants to change the way business gets done in Washington''. . . .

One thing I know about egregious practices, if you do not stop them early in an administration, you never will. It will be alleged that earmarks are down less than they were before, it is an important step forward, and the sponsors of the bill will say earmarks are down 27 percent in the House and 19 percent in the Senate.

Those figures are the most flattering the White House could have used: They refer to the number of earmarks in the bills, not total spending. Total spending on military earmarks in the Senate declined by only 11 percent from the $3 billion approved by Congress last year.

''Despite the fact that earmarks are down, there's still nearly 800 . . . for projects that rose to the top by dint of political power rather than project merit,'' said Ryan Alexander, president of Taxpayers for Common Sense. ''The president needs to take a harder line against waste and political gamesmanship, particularly in the defense bill, which is paying for two years.''

Mr. President, I have an amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The bill is not yet pending.

Mr. McCAIN. I thank the Chair.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2010

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 3326, which the clerk will report by title.

The bill clerk read as follows:

A bill (H.R. 3326) making appropriations for the Department of Defense for the fiscal year ending September 30, 2010, and for other purposes.

AMENDMENT NO. 2558

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I have an amendment at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Arizona [Mr. McCAIN] proposes an amendment numbered 2558.

Mr. McCAIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To strike amounts available for procurement of C–17 aircraft in excess of the amount requested by the President in the budget for fiscal year 2010 and to make such amounts available instead for operation and maintenance in accordance with amounts requested by the President in that budget and for Operation and Maintenance, Army, for overseas contingency operations)

At the appropriate place, insert the following:

SEC. ____. (a) REDUCTION OF AIRCRAFT PROCUREMENT, AIR FORCE, FOR EXCESS AMOUNTS FOR C–17 AIRCRAFT.—The amount appropriated by title III under the heading ''AIRCRAFT PROCUREMENT, AIR FORCE'' is hereby reduced by $2,500,000,000, the amount equal to the amount by which the amount available under that heading for the procurement of C–17 aircraft exceeds the amount requested by the President in the budget for the Department of Defense for fiscal year 2010 for the procurement of such aircraft, with the amount of the reduction to be allocated to amounts otherwise available for the procurement of such aircraft.

(b) AVAILABILITY FOR OPERATION AND MAINTENANCE.—The amount appropriated by title II for Operation and Maintenance is hereby increased by $2,438,403,000, in accordance with amounts requested by the President in the budget for the Department of Defense for fiscal year 2010.

(c) AVAILABILITY FOR OPERATION AND MAINTENANCE, ARMY, FOR OVERSEAS CONTINGENCY OPERATIONS.—The amount appropriated by title IX under the heading ''OPERATION AND MAINTENANCE, ARMY'', is hereby increased by $61,597,000.

Mr. McCAIN. Mr. President, the amendment strikes funding in the Defense appropriations bill for 10 C–17 Globemaster aircraft that we neither need nor can afford. My amendment also redirects those funds to critically important operations and maintenance accounts which the appropriators have seen fit to cut.

At about $250 million per aircraft, the total cost to the taxpayer of the C–17 earmark in this bill is $2.5 billion. But how are we paying for these aircraft? With the cuts made in the bill, it appears much of the offset for paying for the 10 aircraft falls on the O&M accounts. So why are we buying C–17s we don't need and can't afford while at the same time reducing overall O&M accounts by $3 billion?

I am sure the managers of the bill will justify this cut in operations and maintenance. I would rely on the judgment of the Secretary of Defense and the Chairman and members of the Joint Chiefs of Staff who will tell us they need this money for operations and maintenance.

I hope my colleagues understand what this really means. If this bill passes with these cuts, the Air Force in particular will be forced to decrease funding for training, equipment, depot maintenance, and the restoration and modernization of air bases across the United States, and they would not be alone. The Army, Navy, Marine Corps, and National Guard would also come out on the wrong end of these cuts and would be forced to reduce funding for facilities sustainment, training, and recruiting.

After 8 years of war, the Army's equipment readiness has fallen to truly worrisome levels. In testimony before the Armed Services Committee this year, Secretary of the Army Pete Geren said:

Predictable and timely funding is key for us to be able to operate an organization the size of the United States Army. . . .When funding is unpredictable, it makes it very hard to plan long term.

I have seen a hollow Army, deeply degraded in the decade after Vietnam and again during the drawdown of the 1990s. Today's forces are not in such dire straits as those, but 8 years of war has taken its toll on the Army, Marines, Guard, and Reserve component ground forces. As GEN George Casey said: ''The current demand for our forces exceeds the sustainable supply.''

Particularly in a time of war, I urge my colleagues to invest in the recapitalization of our ground forces—not funding aircraft we neither need nor can afford with those investments.

Finally, I wish to mention the Army Reserve and National Guard, which are, as General Casey described, ''performing an operational role for which they were neither originally designed nor resourced.'' In my view, any cut to their operations and maintenance accounts will retard the ability of these components to fit and deploy for missions at home or abroad. And I am sure the Secretary of Defense would say he would like a lot more because of the wear and tear and degradation that already exists to much of our equipment and capabilities.

We can and must do better. Left uncorrected what we would do in this bill is effectively fund the purchase of new aircraft that we neither need nor can afford with critical sustainment money. That would have a significant impact on our ability to provide the day-to-day operational funding that our service men and women and their families deserve.

Let me turn briefly to the merits of the C–17 earmark itself. If some of these remarks sound familiar, that is because I was on the floor of the Senate less than 3 months ago speaking about C–17s when the Senate Appropriations Committee earmarked eight of these cargo aircraft in the 2009 supplemental appropriations bill at a cost of $2.25 billion. That is right. In just 3 months, the Appropriations Committee has set aside nearly $5 billion for 18 C–17 aircraft that we don't need, the Pentagon doesn't want, and we can't afford.

Against that backdrop, over the last 3 years the White House has actively been trying to close down the C–17 production line, asking for as much as $500 million per year to shut down the line. But over that same period, the appropriators have been working in the exact opposite direction to ensure continued funding for the program in supplemental war funding bills—bills that

are supposed to be used to fund the wars in Iraq and Afghanistan.

So despite that the Democrat Department of Defense's overall requirements for C–17s continue to sit at 180, the appropriators have required the Department to buy through fiscal year 2009 a total of 213 C–17s, and they have done so before two key studies have been completed.

This chart illustrates what is going on. Marked in red we see the C–17s the appropriators have added. Why? Because our service men and women need them? No. In 2007, 2008, 2009, and 2010 the Air Force budgeted money to close the line each and every year.

Is the reason some sort of new stimulus package which will create new jobs? No. That is because, as I mentioned, they have had three dozen more C–17s than the Air Force has needed. In fact, right now, the backlog of C–17s is such that Boeing will not begin building these aircraft earmarked by the appropriators for another 2 years.

In the bill we are debating today, the 10 C–17s the appropriators want to fund will bring the total number of C–17s the Senate Appropriations Committee has added above any validated military requirement to 44. Enough is enough.

According to the most recent Statement of Administration Policy, the administration ''strongly objects'' to the addition of $2.5 billion in funding for 10 unrequested C–17 aircraft. The Department of Defense's own analyses show that the 205 C–17s in the force and on order, together with the existing fleet of aircraft, are sufficient to meet the Department's future airlift needs even under the most stressing conditions.

Secretary Gates has likewise very clearly said that the military has no need to buy more C–17s. While Secretary Gates called the C–17—and I agree—a ''terrific aircraft,'' he stressed earlier this year that the Air Force and U.S. Transportation Command ''have more than necessary'' strategic airlift ''capacity'' for airlift over the next 10 years. Nonetheless, continuing C–17 production would cost about $3 billion per year from 2010 onward.

There is little reason why, in connection with the fiscal year 2010 budget request, the President not only requested no funding for additional C–17s but also recommended this program for termination. In light of today's financial exigencies, continuing to spend billions of dollars for C–17s the Pentagon doesn't need and can't afford is becoming increasingly unsustainable. More so than almost any other earmark I have discussed on the Senate floor, this earmark shows our priorities are just about the opposite of where they should be.

For that reason, I am persuaded by the strength of Secretary Gates's opposition, and I find unacceptable the apparent source of funding for this earmark and urge the Members of this body to support my amendment. As I mentioned before, the amendment would redirect money from buying the C–17s we don't need and can't afford to critically important operations and maintenance accounts that are the lifeblood of our troops and their families.

So we have a choice with this amendment. We can either continue to fund an airplane that the military neither wants nor needs, or we can restore the cuts in funding in operations and maintenance which, according to the testimony of every military leader, is badly needed and wanted. The body will be presented with that choice.

Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER (Mr. KAUFMAN). Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

Mr. MCCAIN. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

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

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

INVESTING IN EDUCATION

Mr. BROWN. Mr. President, as Congress awaits health reform and climate change, we must also remember that education is another one of the great moral issues of our time.

Last week, my Washington office was honored to have DeAnthony Cummings serve as an intern for the day. He was 1 of only 60 students selected nationwide who traveled to Washington to participate in Job Corps Day, 45 Years of Building Lives and Launching Careers. For more than four decades, Job Corps centers around the Nation have provided vocational academic training for nearly 3 million economically disadvantaged young Americans.

DeAnthony is enrolled at the Cincinnati Job Corps Center where he is serving his second term as class president. Several months ago I visited with him and his friends at Job Corps. As the eldest sibling, DeAnthony wants to set a good example for his family. He says Job Corps is preparing him for college, where he wants to study psychology and political science. He told me he wants to run for elective office someday to serve his country. He deserves an educational system that helps him get there.

In the coming weeks, the Senate will take up a major bill to expand student aid and education funding at no additional cost to taxpayers. For aspiring college students such as DeAnthony, the bill would move all Federal student loans to the more efficient and less costly public direct loan program. The $87 billion in savings over 10 years can be invested in educational opportunities for our students—for future teachers and doctors and engineers and scientists and computer technicians and farmers.

The bill will protect a student's purchasing power of a Pell grant by ensuring that the maximum grant grows faster than inflation. Senator CASEY from Pennsylvania, who is with us today, worked with me last year to raise those Pell grants that hadn't been raised in 5 or 6 years to get them to the place where students had more opportunity to go to school. For students attending college today, the maximum Pell grant is now $5,350, a historic high.

By eliminating wasteful subsidies to lenders, we can make college more affordable and focus our attention on retention and students' success. That is where one of the Nation's most valuable resources plays a critical role. The community college system is essential to training our most talented workers and students for new jobs in new industries. Last month, the New York Times reported how Sinclair Community College in Dayton focuses on jobs not just degrees.

President Obama's American Graduation Initiative has proposed investing $12 million in community colleges and increasing the number of community college graduates by 5 million over the next decade. Dr. Jill Biden, one of the Nation's most eloquent voices on community colleges, has said:

> Community colleges change lives and serve as a gateway to opportunity for students at all stages of their lives and careers.

A few months ago, at a constituent coffee in Washington, I met an Ohioan who inspired me. Denee, from Columbus, grew up with 13 different foster care families and spent time with the Department of Youth Services. But she believed that better things were ahead for her. She worked hard, earned her GED, enrolled in Columbus State University, and is now finishing nursing school and will start a new job in the fall. Legislation such as the Building Student Success Act, which I recently introduced, will help community college generate a better outcome for their students. It is that type of Federal investment that will help presidents of Ohio's colleges and universities provide the resources for student success on campuses all over my State.

For the last 2 years, I have held the Ohio College Presidents Conference which brings together presidents of Ohio's 2- and 4-year colleges and universities to craft education policy in Washington that meets the needs of Ohio's students. Some 55 college presidents each of the last 2 years have attended and shared their experiences and ideas and views and best practices with one another. Much of what we discussed is what President Obama has explained before: that it is not enough for our economy just to recover, we must rebuild it, and that starts in our classrooms.

Reforming Federal student loan programs frees up resources to modernize schools and strengthen early childhood education. The impact of these investments will, of course, span generations. Student loan reform gives us an opportunity to address another problem that has become more acute because of the economic crisis. Too many of our Nation's students are signing away their

economic future when they sign up for college.

In 2007, 63 percent of Ohio graduates of public colleges finished school with an average debt of $21,000; 75 percent of Ohio graduates of private colleges finished school with an average debt of $22,700.

Private loans typically, though, have higher interest rates that can top 18 percent and have fewer repayment options than loans administered directly by the U.S. Department of Education.

According to an analysis by the Project on Student Debt, nearly two-thirds of private student loan borrowers didn't exhaust their Federal loan eligibility. That is why I introduced the Private Student Loan Debt Swap Act.

Under my debt swap bill, if you have an expensive and unaffordable private student loan, you can use your remaining Federal student loan eligibility to pay off or at least pay down some of that loan. By swapping expensive private loan debt, sometimes with local banks or national banks at 18 percent interest, with low-cost Federal student loans capped at under 7 percent, borrowers could much more readily repay their loans.

This legislation wouldn't increase government spending; in fact, it will likely reduce it. Expanded Pell grants and a strong debt swap bill would help Ohioans such as Kimberly, a schoolteacher from Toledo. During college, she took out private student loans, expecting that she would consolidate them after graduating. After accepting a teaching position, her lenders would not consolidate the loans because of the economy. Kimberly is a teacher at a low-income Head Start school, so she doesn't make as much money as a teacher in a public high school. She has four loans, with four different interest rates, which are all significantly higher than Federal student loan rates.

Kimberly should not have to spend the rest of her career paying off her loans or as she writes:

> I knew that I would be paying out my loan long after graduating, but at this point, someone else will have to pay out the loan after I'm gone.

Imagine that. She thinks she will never be able to fully pay this loan back because of the exorbitantly high interest rate charged by the banks.

Private student loans with enormous interest rates are driving young Americans into never-ending debt. There is no American dream within reach in that scenario for the Kimberlys of the world, just a sense of helplessness and hopelessness.

That is why this student reform bill is so important. John F. Kennedy said once: ''Our progress as a nation can be no swifter than our progress in education.''

In Portsmouth, Lima, Mansfield, Marietta, Toledo, Akron, Gallipolis, and Mason, we have leaders in our community, such as Kimberly, teaching in our classrooms, or, such as Denee, healing people in our hospitals.

Years from now? DeAnthony Cummings should be able to stand in this Chamber representing Ohio because there was an education system that believed in him.

The student aid reform bill is part of the progress we seek—that will allow a child, a working mother or an older worker to believe that in this Nation, if you work hard and play by the rules, you, too, can have part of the American dream.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. Mr. President, there is no doubt that there may be things in the Defense budget that you could characterize expensive, overbudget, and behind schedule programs. But the C–17 aircraft is not one of them, which is why it is so bewildering—and disappointing—that some of this Chamber's well-known budget hawks are opposed to a model procurement program and a boon for the taxpayers.

While the most important concern, of course, is for our warfighter and national security—which I will go into in more detail in a moment—let me address what seems like the primary concern for some of my colleagues: the budget.

Investing in the C–17 is actually a better use of taxpayer dollars than the obsolete and unreliable C–5A. C–17s are planes we need and can afford. The Government Accountability Office has found it would take seven rehabbed and remanufactured C–5As, at a cost of $924 million to the taxpayer, to equal the capability of just one new C–17. They have to have that airlift. Right now, the C–5A is part of it. But it cannot continue as it is. You can get a C–17 for a lot less than you can remanufacture and rehab one of the old C–5As, and that doesn't even work so good.

My biggest concern, of course, is national security. Some of my colleagues have attacked the C–17 as a special interest item. I agree. Investing in the C–17 is in the special interest of our warfighters and it is critical to our national security interests and it gives us the heavy lift air mobility we require these days.

The C–17 is a proven, combat-tested airlift capability that is essential to the fight we are in right now, and it has been a workhorse in Iraq and Afghanistan.

As some of my colleagues have mentioned, we are at war. I couldn't agree more that this is our primary concern, which is, again, why the C–17 is so important. With the war in Afghanistan heating up and the war in Iraq continuing, our airlift needs are only growing.

The Congressional Research Service has indicated that the C–17 was designed to fly 1,000 hours per year over 30 years. But as our overseas commitments have grown, some aircraft have even reached 2,400 flying hours in a single year. My colleague from Arizona pointed out that equipment is being worn out quickly in Iraq and Afghanistan. That is no doubt true. But one key piece of our equipment there is our heavy airlift capability. The heavy usage, in addition to the growth of the Army and Marine Corps, the logistics difficulty of getting supplies into Afghanistan, and the need for increased humanitarian/smart power missions in Afghanistan, Iraq, and elsewhere in the world are all reasons why I urge my Senate colleagues to support the provision in the bill that would add the long lead time purchase we need right now to make sure we can continue to purchase the C–17s as the needs develop.

Some opponents may argue that the Department of Defense and the President don't want more, that they have enough C–17s and C–5s to do the job. However, with a 50-percent readiness level, a per hour operating cost of $29,000, and 40 maintenance man-hours per 1 hour of flight, the C–5A represents ineffective and costly iron.

By replacing these obsolete, ineffective, and costly C–5As with new C–17s, which this Congress has allowed the Department of Defense to do by lifting a truly special legislative interest prohibition, saying in the past they could not retire them, we could save money, provide a more reliable capability for our warfighter, and preserve industrial capability for the future.

I have talked about the importance of investing in our airlift capability for our warfighter and our efforts in Afghanistan and Iraq. But as America's only large airlift production line, the C–17 production line, if ended, would put at risk our Nation's long-term security. Eliminating the only large airlift production line in the United States would demonstrate a lack of understanding and appreciation for the skill sets and efforts needed to build these aircraft.

Without a follow-on program, and because we have already shrunk our aerospace defense industrial base to such a low level, once these skilled workers, the engineers, designers, and their expertise are gone, we do not get them back.

If we lose the skilled engineers, designers, and dedicated workers, we could be forced to turn to Europe or Russia for our future large airlift needs. More and more, this national talent and industrial workforce, which manufactures the critical and unique equipment that helps us fight and win our wars, is being eviscerated.

Without additional funding, our aerospace engineering, design, and manufacturing base will atrophy.

This will put at risk our competitiveness on the global market, our ability to address future airlift requirements, and put at risk 30,000 American jobs stretched across 43 States.

This isn't about preserving jobs in tough economic times, although I believe the administration certainly missed a big opportunity in the stimulus bill to recommend stimulating the economy in defense production. They

didn't put a single dollar in defense production needs, which is where we have tremendous needs.

The C–17 addresses a shortsighted decision on the part of the administration. That decision took for granted the capacity and innovation of our defense industrial base, but we cannot afford to let that wither because their proposal put out of work the people who have designed these aircraft. We have found, in the past, when we have shut down acquisition lines, the skilled engineers leave. One example is they went to work at Disney. That is great. That is good work, but it is not protecting our national defense.

After the draconian defense cuts during the Clinton administration, the arsenal of democracy consolidated and shrank to a point where any further consolidation will result in an irreversible loss in competition, innovation, and industrial capacity.

C–17 production will shut down in 2010 without these 10 aircraft, and restarting production would be incredibly difficult and expensive—according to the GAO, up to $1 billion.

The GAO study further noted that ''careful planning is needed to ensure the C–17 production line is not ended prematurely and later restarted at substantial cost.''

Additionally, the GAO found that ''both the manufacturer and Air Force agree that shutting down and restarting production would not be feasible or cost-effective.''

Keeping the C–17 line open is critical not only for our national defense but for thousands of American workers who rely on this aircraft for their livelihood.

With the waning demand for commercial aircraft and a lull in military fighter jet production, it is more critical than ever to maintain the aerospace industrial base that runs the only remaining wide-body assembly line in the United States.

I urge my colleagues to exercise their constitutional authority and not go along with what I believe will be shown very shortly, if we make the decision, to have been very shortsighted. This is a decision that we, in our constitutional responsibility, can and must make.

We cannot afford disastrous defense cuts coming out of the OMB, which is why we fought and won the effort in committee earlier. It is critical—and that colleagues join with me in supporting the managers on the floor to fight a shortsighted attempt to eviscerate our warfighter's airlift capability and our Nation's industrial base. Both are critical elements for the long-term security and future of our country.

I urge my colleagues to join me in opposing the McCain amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. JOHANNS. Mr. President, I ask unanimous consent to speak as in morning business for about 12 minutes.

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

HEALTH CARE

Mr. JOHANNS. Mr. President, many have come to this Chamber and have talked about their constituents and the concerns that have been expressed to us about health care and how their families would be directly impacted. The frustration driving many of those individuals who have written to us, picked up the phone, attended a town-hall meeting continues. They worry we are not listening.

The biggest misconception is that those who are raising concerns about the President's health care proposals believe that somehow they are defending the status quo. That could not be further from the truth.

We can all agree that health care costs are rising at rates that create hardships across our country. They impact families and businesses, and ultimately they are not sustainable for Federal and State budgets.

There are many things I believe upon which there would be very universal agreement. For example, I support insurance market reforms that increase access to insurance for people who have preexisting conditions. Many of us do in the Senate. I support allowing small businesses to band together to bring down health insurance premiums. Many here do. I support subsidies for those who truly cannot afford insurance to help them buy down their premiums, their deductibles or copays. Again, many here could. I support real malpractice reform that would curb costs by reducing defensive medicine. Again, many here do.

These commonsense reforms and others we could mention could be the cornerstone of what I believe would be a truly bipartisan solution to our health care crisis. But I believe the current proposals have veered in a very different direction. I cannot support so-called reform that lowers the quality of our health care, compromises the doctor-patient relationship, and drastically increases costs for Americans. Yet I worry that the provisions working their way through the Senate Finance Committee appear to do precisely that—increase costs and jeopardize quality. I do not believe it is the kind of health care reform Americans have sent us to Washington to enact.

In our current economic crisis, the last thing American families need is to see more of their paychecks going to pay taxes. This legislation presents a ''darned if you do, darned if you don't'' scenario. It taxes you if you have insurance and it taxes you if you don't.

People who depend on medical devices will see prices rise. So will individuals who take prescription drugs. States will have to raise money to pay for what I regard as an unfair unfunded Medicare mandate. Having been a Governor, I can tell you there are limited choices in State budgets, and State budgets are in crisis today. They are either going to have to raise taxes to somehow find the revenue to deal with that mandate, or they are going to have to do something equally unpleasant; that is, cut programs. Which State programs do you think Americans will want to sacrifice so Washington can have its way with the States in the Medicaid unfunded mandate?

I can tell you from experience, cutting programs is an impossible decision. So is raising taxes. States should not be put in a difficult position again and again by an overreaching Federal Government. Employers will be taxed in order to pay for required health care insurance for their employees. These taxes will create financial heartburn that no doctor's prescription can ease.

This legislation will require every American to have health insurance, with limited exceptions, and not just any health insurance. It requires health insurance that meets specific qualifications the bureaucracy in Washington will dictate.

The Finance Committee bill would require you to spend a certain share of your income before becoming eligible for health insurance subsidies. Under the original Finance Committee proposal, the Congressional Budget Office estimated that an individual who makes $32,400 a year—not a lot of money—would be required to pay $4,100 in health care insurance premiums before becoming eligible for a subsidy. That individual would also be required to pay, on average, $1,600 in copayments and deductibles. These individuals would be required, through the government mandate, again, to spend 18 percent of their income on health insurance. Surprisingly, the cheaper catastrophic coverage some would prefer would not be considered a so-called qualified plan; therefore, not an option.

Furthermore, if you choose not to have health insurance that meets these qualifications, you could be forced to pay out as much as $1,900 in additional taxes per family.

The Internal Revenue Service will be knocking on your door to make sure you literally buy into federally dictated health care reform efforts.

I have heard from many Nebraskans who feel as if this individual mandate is a direct assault on their freedom. Most people do not like the notion that Washington tells them how to live their lives. Imposing an individual mandate tax rubs Americans the wrong way. Not only are we telling them they must buy insurance, but we are telling them what kind of insurance they must buy.

I know some, including our President, argue this is not a tax; rather, it is simply a shared responsibility. The very language in the Finance Committee plan clearly states this is a tax,

and it brings in about $20 billion. Where is the President's promise that he would not raise taxes on individuals who make under $250,000 a year? Well, it is nonexistent. Last week, this was made clear during the Finance Committee markup. When asked about the effect of this individual mandate tax on the middle class, the chief of staff for the Joint Committee on Taxation responded:

> We would expect that some people paying would make less than $250,000.

For hard-working families, the individual mandates will load them up with a fancy benefit plan covering services they may not want or need. They will be required to buy it or their government will penalize them.

This is a complex and a fundamental shift in how we approach health care in our great country, indeed, in how much the government dictates the health care decisions of each and every American.

Furthermore, this legislation raises money by taxing insurance companies, medical device manufacturers, and prescription drug manufacturers. Does anybody doubt for a minute that will be passed on to the average guy? There is little doubt that these increased taxes will lead to higher premiums, more expensive medical equipment, and higher drug prices for Americans. These industries will compensate for the added tax by raising prices, ultimately raising the cost of health care in this country.

Additionally, this plan is likely to decrease research and development in the health care sector, which has been a major driver of innovation and improvement in health care quality. Creating policy that decreases the quality of our health care makes no sense. It is counterproductive. Requiring employers to provide health insurance to their employees or be fined or taxed does not make sense. The Finance Committee proposal is expected to collect $27 billion worth of those fines or taxes. In tough economic times, with unemployment almost in double digits and forecasts to go into double digits, putting more requirements and mandates on job creators and job sustainers is counterproductive. Employers will think twice about hiring more workers.

There is little doubt that these increased taxes will lead to higher insurance premiums, more expensive medical equipment, and higher drug prices for Americans. These industries will compensate by raising their prices. They simply will.

I fear low-income Americans will suffer the most. They need those jobs. We must carefully evaluate the details of this legislation and ensure that our attempts to make things better, which I believe we can do in a bipartisan way, do not ultimately make things worse. I suggest that in tough economic times, creating legislation that increases the cost of health care, that raises taxes is not true health care reform.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

MAJORITY PARTY MEMBERSHIP ON CERTAIN COMMITTEES

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to S. Res. 290.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

> A resolution (S. Res. 290) to constitute the majority party's membership on certain committees for the One Hundred Eleventh Congress, or until their successors are chosen.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, with the filling of Senator Kennedy's seat by the State of Massachusetts, we are now rearranging the committees. Some have been vacant since his death.

I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 290) was agreed to, as follows:

S. RES. 290

Resolved, That the following shall constitute the majority party's membership on the following committees for the One Hundred Eleventh Congress, or until their successors are chosen:

COMMITTEE ON ARMED SERVICES: Mr. Levin (Chairman), Mr. Byrd, Mr. Lieberman, Mr. Reed, Mr. Akaka, Mr. Nelson (Florida), Mr. Nelson (Nebraska), Mr. Bayh, Mr. Webb, Mrs. McCaskill, Mr. Udall (Colorado), Mrs. Hagan, Mr. Begich, Mr. Burris, and Mr. Kirk.

COMMITTEE ON HEALTH, EDUCATION, LABOR AND PENSIONS: Mr. Harkin (Chairman), Mr. Dodd, Ms. Mikulski, Mr. Bingaman, Mrs. Murray, Mr. Reed, Mr. Sanders, Mr. Brown, Mr. Casey, Mrs. Hagan, Mr. Merkley, Mr. Franken, and Mr. Bennet.

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS: Mr. Lieberman (Chairman), Mr. Levin, Mr. Akaka, Mr. Carper, Mr. Pryor, Ms. Landrieu, Mrs. McCaskill, Mr. Tester, Mr. Burris, and Mr. Kirk.

JOINT ECONOMIC COMMITTEE: Mr. Schumer (Vice Chairman), Mr. Bingaman, Ms. Klobuchar, Mr. Casey, Mr. Webb, and Mr. Warner.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2010—Continued

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, as the Senate realizes the business today is the administration's fiscal year 2010 Defense budget proposal, our Committee on Appropriations, as everyone knows, in the regular order, had hearings and took advantage of advice from testimony and suggestions received by other Senators on and off the committee about the provisions of this important legislation. It sets out, as the Senate appreciates, the funding that will be permitted by the Department of Defense for the next fiscal year. So the subject we have today before us is specifically an issue involving a funding provision in the administration's fiscal year 2010 Defense budget proposal.

The administration proposed several funding cuts for weapons programs they deemed unneeded. The Senate Appropriations Committee, in its hearings and in its deliberations, reviewed each of the proposals and generally agreed with the recommendations set forth in the administration's budget submittal.

This bill does not include additional funding for F–22 aircraft, the Presidential helicopter, the Joint Strike Fighter alternate engine, the combat search and rescue helicopter, the Kinetic Energy Interceptor, and several other programs which were proposed for funding cuts by this administration.

The C–17 aircraft is an area where we did not agree. The committee proposed $2.5 billion be included in the bill for 10 additional aircraft. As we all know, the Defense Department is not infallible. It was wrong and overruled by Congress when it recommended program terminations of the F–117 stealth fighter and the V–22 Osprey.

The C–17 is the current backbone of our strategic airlift capability, and it will be for decades to come. C–17s are being utilized all over the world at a much faster pace than previously anticipated. While they comprise only 60 percent of the Air Force's strategic airlift fleet, they are flying 80 percent of all worldwide strategic airlift missions.

This demand for C–17 lift capability is only going to grow as new airlift missions emerge. Other missions we know about already are rapid deployment of theater missile defenses, counterinsurgency operations, as well as growing airlift demands for an expanding Army and Marine Corps.

Failure to fund the C–17 will result in the United States shutting down its airlift manufacturing base at a time when the demand for airlift is likely to grow. Allowing the C–17 supply base and production line to shut down and then trying to reconstitute it would cost billions of dollars and take years to accomplish.

The Quadrennial Defense Review and the upcoming Mobility Capability and Requirements Study are reassessing our strategic airlift requirements. Until those requirements are reevaluated, the C–17s should be included in this bill. The Air Force Chief of Staff has stated that he believes 205 C–17s and 111 C–5s are needed to meet strategic airlift requirements and that procuring more than the 205 C–17s already purchased should involve a light reduction and retirement of C–5A aircraft.

Prior to enactment of the fiscal year 2009 Supplemental Appropriations Act in June of this year, the Air Force was prohibited from retiring the older and less capable C–5As. Now that the Department has authority to retire these aircraft, we should replace a number of

them with a highly capable aircraft in production today. The Government Accountability Office has concluded:

> It will take seven fully modernized C–5s at a cost of $132 million each to attain the equivalent capability achieved from buying one additional C–17 at a cost of $276 million.

In other words, it would cost $924 million to modernize seven C–5s to get the same capability of one C–17 costing $276 million.

Based on the growing airlift needs and the new authority to retire the aging and hard-to-maintain C–5 aircraft, we added the $2.5 billion to sustain production of the C–17 program for 1 additional year. This additional year will give the Department of Defense time to complete its airlift reviews and preserve the option of adding to our strategic airlift fleet.

If funding for C–17s is eliminated in this bill and the ongoing studies determine additional airlift is needed, at best there will be significant cost increases and delays in getting the aircraft to the fleet; at worst, it will be cost prohibitive to restart the line and our service men and women will be denied equipment needed to perform their missions. That would be totally unacceptable, and I urge a ''no'' vote on the McCain amendment.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, the statement I am about to present may appear a bit redundant after listening to the great statement of the senior Senator from Mississippi, vice chairman of this committee. But as chairman of this committee, I want to, by this redundancy, emphasize that Senator COCHRAN and I work as a team, and we agree with the provisions in this measure. For the interest of this body, it should be noted that this measure was passed and presented to the Senate by a vote of 30 to zero—unanimous. A $636 billion bill coming out of the committee, after due consideration, unanimously is historic.

The amendment of the Senator from Arizona seeks to eliminate funds provided in this bill to sustain the C–17 program. As I indicated, Vice Chairman COCHRAN and I proposed, and the committee accepted, our recommendation to relocate $2.5 billion to procure an additional 10 C–17 aircraft. If approved, this will bring the total C–17 inventory to 223 aircraft. We believe this is a critical investment which will support our national security strategy and add much to the needed airlift capability.

There are three main reasons the committee supported adding funding for the C–17:

First, as everyone in the military, from senior leadership to the soldiers being transported, will agree, it is, simply put, a superb aircraft. The C–17 represents the finest in military technology. It is efficient, cost-effective, and highly capable. In short, it has no detractors.

Second, we believe the facts now show that additional aircraft are needed to meet military requirements despite that it is being recommended by the Pentagon for cancellation.

Third, the C–17 embodies the only strategic airlift production program in our Nation. As the Senator from Missouri pointed out, there is nothing on the planning ledger to replace it. If we cut off the production at this moment, it will be unaffordable to restart this program.

The C–17 provides the U.S. military with the essential flexibility to respond on short notice—and I emphasize short notice—anywhere in the world. Our air fleet assets are a major enabler of strategy and operational plans. There is not a military scenario in existence today which can be put into effect without a strong airlift fleet. The C–17 was designed specifically to meet virtually all of the needs of our warfighters. It is the only airlift aircraft that has the ability to fly both great distances and to land on austere airfields anywhere in the world. That is very important because we don't have long runways prepared for us in far-off countries. When teamed with the tactical C–130 and the C–5, the C–17 fleet provides the Nation with the capability to deliver outsized cargo to our forces wherever they may be located.

We believe the C–17 is today the finest airlift aircraft in the U.S. arsenal. With its new avionics and structures, it can maintain a very high mission capability rate. This is a term used by the Air Force to denote the aircraft's ability to perform. Comparative data filed by the Government Accountability Office in November 2008 showed that the C–17 was able to successfully perform its mission in excess of 85 percent of the time. And I think we should note that—85 percent of the time, they are able to perform their mission. On the other hand, the aging C–5 was only able to meet its performance demands 58 percent of the time. For our men and women in uniform, what this means is that if they are depending on a C–5, their needs will be only addressed a little more than half the time, while a C–17 will meet their needs more than 8 times out of 10.

In addition, the C–17 is much cheaper to operate than the C–5. It is true that a C–5 has the capacity to carry more cargo, but in the actual usage by the Air Force, the cost per flying hour of the C–17 is only 40 percent of the cost of the C–5. The Air Force has informed us that today its current statistics show that it costs $6.42 to fly 1 pound of cargo from South Carolina to Baghdad on a C–17—that is $6.42 from South Carolina to Baghdad—but $13.76 to fly the same item on a C–5. Why? Because the C–5 is unreliable, because we rarely need to fill either plane to its maximum capacity on an average mission, and because the C–17 is newer and modernized in comparison to the C–5. We simply cannot rely on the older, outdated C–5.

Opponents might argue that when we modernize the C–5 it will be able to overcome many of these problems. I would concur that a modernized C–5 will be a far better aircraft. However, I would point out that the C–5 Modernization Program has been plagued with delays and cost overruns. Because of the high cost of the C–5 Modernization Program, the Defense Department decided that it could no longer afford to modernize all 111 C–5s and it cut the program to 52. That means our military will be dependent on 59 of the old and often broken C–5s that cost twice as much to operate as the C–17 for the foreseeable future. That is 47 percent of the C–5 fleet that won't be updated and will be unable to operate efficiently to meet our military needs.

The Government Accountability Office noted that additional investments in the C–17 may be attractive. It calculated that the Defense Department would need to modernize, as Senator COCHRAN pointed out, seven C–5s—to modernize seven C–5s—to get the equivalent capability gained from acquiring one C–17. It is going to take seven C–5s to do the work of one C–17, but it would cost three times as much to modernize the seven C–5s as it would to purchase one C–17.

I would like to point out that the C–17 is a fully matured program with stable costs and little uncertainty, while the C–5 Modernization Program is still in its infancy. If there is one thing we know about Defense programs, it is that new program costs generally increase during their early years.

Some may address the Senate and say we don't need any more C–17s. They note that today the Air Force now says we only need the 213 we already have purchased. I would like to point out that in 2002 the commander of the U.S. Transportation Command testified that his C–17 requirement was for 222 C–17s. Moreover, the 2005 Mobility Capabilities Study also raises questions about how many aircraft are required. This study, which is supposed to be the basis of our strategic airlift capability requirements, identified the need for between 292 and 383 strategic airlift aircraft, a combination of C–17s and modernized C–5s. In the force today, we have 111 C–5s and 205 C–17s—a total of 315 aircraft—near the bottom of the requirement level. But that doesn't tell the whole story.

In the last Quadrennial Defense Review in 2006, the Defense Department opted to keep its total inventory near the bottom of this requirement range with 180 C–17s and 112 C–5s.

Although we have added C–17s since that time and lost one C–5, the more important fact is that the QDR based this recommendation on a plan to modernize all 112 C–5s. With the plan to only modernize 52 C–5s, the airlift capability of the fleet is drastically diminished.

In 2008, the commander of the Air Force Air Mobility Command expressed his concern with this plan. He testified that the plan with 52 modernized C–5s and 205 C–17s will not provide the strategic airlift that he required.

I would also note that these earlier studies did not take into account today's force structure. That is a very important point. Since the mobility study and the QDR were completed we have transformed our Army creating additional combat capability that requires lift. We have increased the end strength of our Marine Corps, and we have created the U.S. Africa command. All of these have increased our airlift needs.

At the same time, operations in Iraq and Afghanistan are aging our airlift fleet beyond anticipated rates. We are flying the wings off our C–17 fleet. In November, 2007, the Air Force Chief of Staff recommended buying an additional 44 C–17s to meet the required force level. On the 2009 Unfunded Requirements List the Air Force asked for an additional 15 C–17 aircraft with a stated inventory objective of 248 C–17s. Our military leaders have called for additional aircraft, our forces have grown since our last studies were written and our plans have been altered to cut back on our modernization program.

It seems to me that notwithstanding the plan offered by the Defense Department, the country has a choice—we can either agree to modernize all the C–5s or we can continue to procure additional C–17s. As noted earlier, as the GAO discovered a new C–17 offers greater capability at a lower price. To me and to many of my colleagues this just makes sense.

Unless we act this year and approve the recommendation from the Appropriations Committee, we won't have a choice. Without the funds in this bill the C–17 program will begin to shut down. I say to my colleagues this is a critical decision and we have to be certain on our course. As the GAO noted, ''careful planning is needed to ensure C–17 production is not ended prematurely . . . Restarting production would not be feasible or cost effective.'' That is the GAO.

Earlier this decade, on several occasions the Defense Department urged the Congress to allow it to begin to retire the oldest and least capable C–5s. It too believed that purchasing additional C–17s was a far superior choice to meet our airlift needs. However, each year the Congress refused to allow DoD to retire any C–5s. Eventually, the Pentagon gave up trying and decided it would be stuck with the old unreliable C–5s. While it originally sought to upgrade all the old C–5s to at least make the best of a bad situation, the cost overruns and delays in the C–5 modernization program made that decision unaffordable. I would point out that the Congress rectified this problem this year in the supplemental and allowed the Air Force to begin to retire these aged aircraft. We know that it makes economical sense to retire these poorly performing aircraft and to replace them with new C–17s. We are looking forward to the Air Force revisiting this issue in the fiscal year 2011 budget with a renewed plan to retire the older C–5s and hopefully a desire to replace them with new C–17s.

In this year's budget the Secretary of Defense has made some tough decisions'' He has opted to kill the F–22, the JSF second engine, the VH–71 Presidential helicopter, the combat search and rescue helicopter and the kinetic energy interceptor. In the bill before the Senate we have supported each of these recommendations. I will be candid that I am not confident that each of these recommendations is in our Nation's interest, but in general I support the Secretary's plans.

There is only one program that the vice chairman and I felt strongly enough about to reverse the recommendation of the Secretary, the C–17.

I have explained at some length why, it is cost effective, it is capable, and it is needed. I urge all my colleagues to reject the amendment of the Senator from Arizona and to vote to support the continuation of the C–17 program.

It is in our Nation's interest.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. UDALL of Colorado). Without objection, it is so ordered.

AMENDMENT NO. 2484

Mr. JOHANNS. Mr. President, I ask the current amendment be set aside and we call up amendment No. 2484.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Nebraska [Mr. JOHANNS] proposes an amendment numbered 2484.

Mr. JOHANNS. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: Prohibiting use of funds to fund the Association of Community Organizations for Reform Now (ACORN))

On page 263, between lines 10 and 11, insert the following:

SEC. 9____. None of the funds made available under this Act may be distributed to the Association of Community Organizations for Reform Now (ACORN) or its subsidiaries.

Mr. JOHANNS. Mr. President, I rise to present amendment No. 2484. Actually, this is an amendment we have acted on in previous appropriations bills. In fact, this is the amendment that deals with no funding for the organization ACORN.

In the previous Interior bill this passed in a very bipartisan way with a 85-to-11 vote; in the Housing and Transportation bill, again a very bipartisan vote, 83 to 7.

This is an amendment that has overwhelming support of this body. My comments relative to this organization are a matter of the record. I do not feel a need to lay those out again, but I want to present this amendment on this appropriations bill and we have reached an understanding that this can be accepted by voice vote. I want to indicate that will be acceptable to me.

Mr. INOUYE. The Senator is correct.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 2484) was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INOUYE. 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. INOUYE. Mr. President, the pending business before the Senate is the DOD appropriations bill for fiscal year 2010. This measure contains approximately $636 billion, including nearly $130 billion to continue the fight against terrorism in Afghanistan and all around Southwest Asia.

It contains funds to pay our men and women in uniform, as well as funds to operate our forces and to take care of our wounded. It provides the money required to equip the warfighters and to develop new weapons systems so that they may be protected in the future.

Today is September 29. The fiscal year ends tomorrow. I believe all of us should know that. On Thursday, the Department of Defense will begin to operate on a continuing resolution, a stopgap measure required because the Congress has not completed action on its 12 appropriations measures.

I want to point out that the Appropriations Committee reported its first fiscal year 2010 bill in the Senate on June 18, more than 3 months ago, and this last bill on September 10, nearly 3 weeks ago. All of the other bills were reported before the August recess.

However, because of the scheduling problems we have had, this Senate has passed just six bills. We have spent the better part of 7 weeks on the floor to pass these bills. I wish to note that in years past, most appropriations measures were taken up and passed by this body in 1 or 2 days. Now it is nearly 1 week on each bill. The Senate is known for being a deliberative body, but this is the third day the Senate has been on this important bill, and up until a few minutes ago, not a single amendment had yet to be offered.

Moreover, at this point, only eight amendments have been filed, and we have seen this pattern week after week. Our colleagues are waiting days before getting serious about these bills. The impact of these delays is that the end of the fiscal year is upon us, and

we are nearly only halfway done completing Senate action on our bills, and only one of the 12 bills has reported out of conference committee.

At this juncture, I wish to note that we have had 12 measures. Of the 12 subcommittees, 3 reported the bill to the Senate on a vote of 29 to 1—not quite unanimous, 29 to 1. The remaining nine subcommittee bills, after due deliberation, debate, and discussion, were passed on to the Senate. The Senate committee reported to this Senate with a recommendation that it be passed by a vote of 30 to 0.

This measure before us was adopted by the Appropriations Committee, made up of liberal members, conservative members, middle of the road and whatever you want, men, women, by a vote of 30 to 0.

In January, when I became chairman of this committee, it was apparent to me that the Senate and the legislative branch were losing control over the budget process. We had not passed all of our spending bills as freestanding measures since 2005. We only accomplished that feat once during the past decade.

In many cases, we have resorted to large omnibus bills to complete our work. The Senate has not been allowed to debate or amend many of the measures that were passed. This is no way to run the government.

Vice-Chairman COCHRAN and I agreed to put a stop to this practice. We vowed to pass 12 bills and to send them to the President individually. We have passed those 12 bills in a timely fashion and presented them to the Senate. Our leaders fully supported us in this plan.

I remind my colleagues that the entire Republican caucus sent a letter to the majority leader urging him to follow this approach. But when it came to putting this in practice, instead of working to get this accomplished, we have been hamstrung by slow progress on each and every bill.

We are well aware that Members have amendments they wish to have considered on this and other appropriations bills. We understand that and have been waiting to debate them. Senator COCHRAN and I came to the floor Thursday night but were told there was nothing to do. We came here on Friday morning with the same results. We are back this afternoon, and we have one amendment.

The go-slow approach that has been taken by a few of our colleagues has put us in a position in which the government must now begin to operate on a continuing resolution. What does that mean to our agencies? It means they must throw out their plans for operations and streamline activities so that only the most essential operations are funded. Continuing resolutions will continue programs that have expired and are no longer needed, and the new programs that will replace them will not be in place. It means they must delay purchases until they are sure the resources they are seeking will be approved.

In the case of the Defense Department, it means they have to delay starting new weapons development and procurement programs. Some of my fiscally conservative colleagues might applaud this, thinking it means they are cutting spending. But, unfortunately, they are wrong. In fact, we are only running up expenses, as we follow penny-wise, pound-foolish practices which cost more in the long run than they save.

Senate rules are written to protect the rights of the minority and to ensure that legislation is carefully reviewed. But it is also true that when time is of the essence, the deliberative process is frequently turned on its head and complex matters rushed through with no time to debate or opportunity to offer amendments. Rather than delay these bills, which have minimal controversy, leaving the body no choice but to adopt expedited procedures to complete action, let's proceed apace and get this and the other five bills through the Senate as quickly as possible because it is the responsibility of the Congress to ensure that taxpayer funds can be expended efficiently by passing each of these appropriations measures without depending on continuing resolutions or omnibus measures.

I urge all of my colleagues to work with us so we can complete our work, the work of this Nation.

Mr. President, I yield the floor and 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. DODD. 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. DODD. Mr. President, I am going to take a few minutes to address the pending amendment, if I may. Then, at the conclusion of those remarks, I wish to speak as if in morning business for a few minutes to address another matter that will not be the subject of the pending legislation, if that is permissible.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DODD. Mr. President, I rise in strong opposition to the amendment offered by my friend and colleague from Arizona that could wipe out a highly skilled American workforce. It would irreparably damage our combat readiness, deprive our troops in the field of critical resources and threaten our national security. Those are strong words, but that is what is involved if the amendment being offered by the Senator from Arizona is adopted.

I wish to introduce my colleagues to three workers at Pratt & Whitney in Middletown, CT. We see three individuals working on this engine. They are removing test equipment after completing testing on a powerful, cutting-edge engine, preparing it for delivery to the U.S. Air Force. The man on the left is Doug. He has been working for Pratt & Whitney for 24 years. He is married with three children, 8-year-old twins and a 4-year-old.

The man in the middle is Steve. He spent 4 years in the Air Force before coming to Pratt & Whitney and boasts a quarter of a century in aviation experience. On the right is his coworker Michael, with 15 years of experience on the floor and 8 as a supervisor at this facility. If we effectively lay off these workers and the 30,000 Americans like them in 43 States who build the C–17, we will be causing tremendous pain and financial hardship at a time when our communities can least afford it.

In my home State of Connecticut—29th in total population, but 6th in total aerospace employment—we just received word that Pratt & Whitney is going to close maintenance facilities in Cheshire, CT, and East Hartford, CT, costing 1,000 jobs. If this amendment prevails, my State's largest private employer tells me that they will stand to lose another 3,000 jobs. That means the loss of decades of experience and expertise that has allowed us to maintain not parity with the world, but superiority, in the aerospace industry.

Perhaps my colleagues aren't persuaded by the imminent loss of thousands of jobs in my state or even their own. Perhaps some might be tempted to threaten the livelihoods of 30,000 people at a time when we can ill afford it. To them I say, think about these three individuals are doing for our troops.

According to the Air Force, over the last 3 years in the military's Central Command alone, the C–17 has flown more than 100,000 airlift sorties, moved more than 2 million personnel, delivered nearly 300,000 tons of cargo, and executed nearly 2,000 air drops. According to the Government Accountability Office, C–17s have delivered more than 2.4 million tons of cargo to Iraq and Afghanistan alone. That is 2.4 million tons of supplies—everything from critical gear to large vehicles—sustaining our troops on the battlefield.

The Government Accountability Office also notes that this aircraft has ''drawn praise during combat operations''—listen to this—with an 86-percent readiness rate, compared to the 53-percent readiness rate of the 40-year-old C–5 fleet that shares the cargo lift mission with the C–17s. The C–17 is the most reliable airlift plane in our arsenal, and it is also the most versatile. Unlike any other aircraft we have, the C–17 can complete combat, humanitarian, and other transport missions all over the world, thanks to its unique ability to take off and land in difficult environments, in remote airfields, or in situations where runways are shortened or degraded.

The Air Force reports that the C–17 is able to take off and land on 65 percent of the world's soils, whereas older airlift planes can only land on 6 percent.

This incredible versatility makes the C–17 vital to the success of counterinsurgency, humanitarian, and research missions the world over. It can operate not only in Iraq and Afghanistan, but in places such as Bosnia, Rwanda, Sudan, and even Antarctica.

But today I feel this versatility is taken for granted. Our commitments overseas, especially since 2001, have imposed far greater burdens on these aircraft than we had originally planned for.

The Congressional Research Service reports that the C–17 was designed to fly 1,000 hours per year, with an expected lifespan of 30 years. But as our overseas commitments have grown since 2001, the fleet has averaged 1,250 hours per aircraft and some have even reached 2,400 flying hours in a single year.

GEN Arthur Lichte, the Air Force's air mobility commander, has said that at this rate, the C–17s may have a lifespan as short as 22 years. When a mission-critical aircraft is due to retire 8 years earlier than intended, as this one may be, we who are charged with equipping our troops in the field must address our procurement plans and we must do it now. Some of our newest C–17s are already 15 years old.

I wish to remind my colleagues that last July the Senate voted 93 to 1 to authorize the expansion of the Army by 30,000 soldiers. I, along with nearly all of my colleagues, supported that increase to meet our growing security demands and relieve the combat burden on our already overstretched forces. When we took that vote, we incurred an obligation as well to provide those troops with the support they will need in order to do their jobs.

Chairman INOUYE and the members of the Senate Appropriations Committee have demonstrated incredible foresight by acting quickly to prevent these future shortfalls in this very important fleet. If this amendment to undo their good work prevails, we are doing a disservice to our troops. We are also doing a great disservice to our taxpayers.

The author of this amendment has said we should kill the C–17 now and wait for a government study down the road to see whether we need more of these aircraft. Well, if we kill the C–17, we will lose our only wide-body assembly line in the United States. According to the Government Accountability Office, it will cost up to $1 billion to restart the line when it inevitably dawns on us that we need additional military cargo planes to support our troops in the field. If we hand these three individuals and the 30,000 of their fellow workers around the country pink slips in the next few days, who do we think is going to build those planes down the road?

By the way, if we choose to try to make up the capability by extending the lives of the C–5As, we would need to overhaul and repair seven of them at a cost of nearly $1 billion to equal the capability we would get from buying just one additional C–17 at a cost of $276 million.

This amendment would hurt our workers, our troops, and our national security. It is a massive expenditure disguised as a short-term savings. It is the very definition of cutting off our nose to spite our face when it comes to the critical needs of our troops in the field. Whatever views one may have on Afghanistan or Iraq, we want to make sure that our troops, wherever they are, receive the support they need.

Today, when the vote occurs, I urge my colleagues to support the committee and reject the amendment to cut out these critical aircraft.

With that, I ask unanimous consent to be allowed to move to a matter other than the one I just discussed as in morning business.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). Is there objection?

Without objection, it is so ordered.

IRAN

Mr. DODD. Mr. President, it has been a tumultuous year in Iran.

The Iranian regime has continued to pursue its nuclear ambitions, fund terrorist activities throughout the Middle East, and repress its own people. The world watched this repression play out in the wake of this summer's illegitimate elections, when brave and peaceful protestors were violently attacked.

If Iran were to acquire nuclear weapons capability, it would pose a significant threat to peace and security in the Middle East, especially to our close ally Israel and others in the region.

For years, the Iranian regime has refused reasonable requests by the international community. And it has failed to meet its obligations under international nonproliferation rules.

That is a threat to both national security and global stability, and it cannot be allowed to stand unchallenged.

President Obama has undertaken an aggressive dual-track approach. He has offered high-level engagement with Tehran, but has matched that carrot with the stick of sustained pressure through economic sanctions. As the President has warned, Iran won't be allowed to run out the clock.

As chairman of the Senate Banking Committee, I intend to introduce legislation that will arm the administration with the ability to impose tough, targeted sanctions if Iran does not respond to our final diplomatic efforts in the coming weeks.

We must confront Iran's government with its long record of duplicity and deception on the issue of its nuclear facilities.

Last week, President Obama revealed that Iran is building a secret uranium enrichment facility in violation of international rules.

The President and our allies have rightly insisted that IAEA inspectors be allowed to access this facility promptly. And over the weekend, Iran moved forward on provocative missile tests.

In two days, the United States and our allies will begin key talks with Iran's leaders. Unfortunately, Iran's President has already suggested that appropriate limits to his country's nuclear enrichment program are off the table.

Clearly, in light of this growing threat, there is cause for great concern and prompt action on our part.

But there is also cause for hope that Iran might be forced to change course. We have received renewed support from our allies. We have been encouraged by the strong international rejection of election abuses. And we have seen tensions within the Iranian regime begin to break into the open.

It is not too late for a proper resolution. But the road ahead is difficult. It will require sustained diplomatic effort to ensure all of our strategic partners—the Europeans, the Russians, the Chinese, the Indians and moderate Arab states throughout the Middle East join this effort.

We will only succeed if Iran is confronted by the prospect of sustained, progressively intensifying multilateral economic and diplomatic pressure on its government including tougher sanctions.

This week's negotiations should confront Iran's leaders with a clear choice: end its illegitimate efforts to enrich uranium, halt its proliferation efforts, and stop supporting terrorists around the world—or continue to deepen this regime's isolation, and ruin the Iranian economy.

The administration is right to attempt engagement with Iran even as we make clear that biting sanctions will follow if international demands for greater transparency continue to meet with stubborn refusal.

Administration officials have outlined to me a menu of additional tough multilateral sanctions that they are considering imposing. Congress must equip President Obama with a full range of tools to deal with the threats posed by Iran.

In the last Congress, the Banking Committee approved comprehensive legislation to impose tough new sanctions on the Iranian regime; authorize investors to divest from companies active in Iran's energy sector; and combat black-market networks spreading weapons around the world. Unfortunately, floor consideration was repeatedly blocked by a small minority.

Given the rising stakes, I intend to work with my committee colleagues, including Ranking Member Senator SHELBY, to press forward similar sanctions legislation in the next few weeks.

I want to congratulate Senators LIEBERMAN and BAYH for their leadership on this issue, including their legislation to impose further sanctions on entities involved in importing gasoline to Iran or in assisting Iran's efforts to expand its domestic refining capacity.

Iran's energy sector is a key source of revenue to the government—and Iran is especially susceptible because of its dependence on imported gasoline. I will integrate these critical provisions into the legislation.

Our legislation will be targeted and strategic, maximizing the economic leverage of the U.S., our partners and allies, and investors while avoiding the risks of a more indiscriminate approach.

The bill would also expand coverage under the Iran Sanctions Act to include financial institutions, underwriters, guarantors, and other business entities, and extend the applicability of sanctions to oil and gas pipelines and tankers.

It would impose a broad ban on direct imports from Iran to the U.S. and exports from the U.S. to Iran of those few items still able to be so shipped, exempting food and medicines.

It will strengthen existing authority to freeze the assets of Iranians active in weapons proliferation or terrorist activity, and make it clear that U.S. entities who establish a subsidiary to get around sanctions laws will be held liable for the activities of their subsidiaries.

Finally, it would impose new requirements that the President actually make a determination, and report every 6 months to Congress, regarding the sanctionability of eligible investments in Iran's energy sector.

In addition to expanding U.S. sanctions, the bill would also establish a simple formula authorizing divestment from firms which invest significant amounts in Iran's energy sector, with provisions patterned after the Sudan Accountability and Divestment Act enacted 2 years ago.

Many of us believe that Americans should be able to divest from energy firms doing business with the Iranian regime whose policies they abhor, and which indirectly help to prop up the regime.

They should be given the tools they need to make socially responsible decisions. And investors who choose to divest—States, large pension and mutual funds, and others should be held harmless for these decisions. Investing in Iran is risky business, and investors should be fully informed of those risks going in. The bill does not require divestment; it simply permits it.

Finally, this bill will provide incentives for countries to strengthen their export control systems to stop the illegal diversion of sensitive dual-use technology to countries like Iran, and impose tough new licensing requirements on those who refuse to cooperate.

As we confront the realities of a global marketplace, with manufacturers assembling parts of complex machinery such as aircraft and computers from a supply chain spanning the globe, and as regimes like Iran, North Korea, and Syria trawl various trans-shipment hubs for such parts to assemble high-tech weapons, it makes sense to address this problem head-on.

We have developed a way to do this, with an array of carrots and sticks to prod unwilling countries to get serious about developing and implementing tough, comprehensive export control rules and systems.

Our allies continue to work closely with the US to increase economic and diplomatic pressure on Iran.

I believe our legislation will complement and reinforce those ongoing diplomatic efforts, and send a clear signal to Iran's government of what's in store if they continue to flaunt the will of the international community.

Congress will be moving forward on the same timetable that the President and our allies have set for this fall, to underscore to Iran's leaders the huge price they will pay economically, politically, diplomatically, and otherwise if they do not change course.

The government of Iran must come clean on its nuclear program, which as President Obama observed last week represents a direct challenge to the basic foundation of the international nonproliferation regime. I hope my colleagues will join me in supporting efforts in the coming weeks to make clear to the Iranians that we in Congress stand with President Obama in our determination to confront this problem forcefully, and urgently, before it is too late.

Mr. President, we will have our hearing on October 6 in the Senate Banking Committee. My intention is to, shortly thereafter, a week or so, combine the proposals offered into one strong, comprehensive sanctions bill. I, as well as others, believe we should take no options off the table and that we understand the implications of the statement.

Most of us agree every effort ought to be made to resolve this matter short of the use of military force. Obviously, that option remains. I believe we are proposing a sanctions regime, along with the needed cooperation of other nations around the world, that will send an unequivocal message—and nothing would be more important at this hour than to send that clear united message from this body and the other body—of our determination to use all the tools available to us to bring about the desired change we seek.

By adopting this strong legislation, my hope is they will understand how serious we are in our determination to achieve the common goal sought by the administration and us in this body.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. CASEY. Mr. President, I ask unanimous consent to speak as in morning business.

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

Mr. CASEY. Mr. President, I rise with respect to Iran's nuclear program. I commend the Senator from Connecticut, chairman of the Banking Committee, for his presentation a few moments ago. Similar to so many Americans, we have learned a lot in the last couple days that is troubling.

The Iranian regime, discredited this summer by the deplorable repression of peaceful prodemocracy demonstrators across the country, has reached a new low on the international stage. Again, I speak of the Iranian regime—the Government—and not the people of Iran. The disclosure of the uranium enrichment facility near the city of Qum should serve as a wakeup call for those who believed Iran's nuclear program was only for peaceful purposes. The regime continues to deceive the international community about its nuclear intentions and program development. It continues to threaten our ally Israel; it continues to disregard its international commitments; and, yes, the regime continues to directly threaten the national security interests of the United States.

As the administration begins talks on Thursday, we in the Senate should be prepared to do our part and pass tougher sanctions on the Iranian regime to compel its compliance with international standards. We have a responsibility to provide the administration with the tools it needs to maximize pressure on this increasingly intransigent Iranian regime.

I applaud the administration's approach to recalibrating U.S. engagement around the world. At a minimum, this international effort will restore America's long-held reputation of being an honest broker, of a country that values diplomacy and relationships with allies and welcomes new ones. Internationally, the United States is on a better footing than it has been in years. Ties with allies have been strengthened. Those on the fence, such as Russia and China, in this particular question, are showing signs of cooperation on issues that are critical to our national interests. Our adversaries, not sure how to demonize the United States such as they used to do, are on their heels. The administration's diplomatic offensive has put us into a position where we have a strong coalition going into these important discussions on Thursday.

The events of the last week are unfortunate evidence of the Iranian regime's deceit, defiance, and disregard for international standards for peace and security.

First, on Monday, the Iranian regime sent a letter to the IAEA disclosing the existence of the second enrichment and refining facility, a site that the United States and Israeli intelligence reportedly have tracked for years. This missive denies that the site was intended for nuclear purposes, though the 3,000 centrifuges were clearly meant for weapons-grade refinement. Moreover, the site was buried deep underground and under protection by the elite Revolutionary Guard—not the typical protocol for a peaceful energy site.

On Wednesday, the Iranian President, Mr. Ahmadinejad, used his time on the rostrum at the United Nations not to welcome a new day of engagement with the international community but in typical fashion to rail against Israel. This desperate attempt to divert attention from his own internal political

problems, as well as his government's deceitful nuclear program, once again showed this regime is not a responsible actor on the world's stage. Iran's people recognized this last June by voting against Mr. Ahmadinejad and his brand of politics. The world witnessed on live television how Mr. Ahmadinejad viewed the democratic process as his people paid dearly for the audacity of their vote.

Finally, over the weekend, Iran's news service reported three rounds of missile tests, including those capable of hitting Israel. GEN Hossein Salami, head of the Revolutionary Guard Air Force, said the drills were meant to show that Tehran is prepared to crush any military threat from another country. This erratic display will actually weaken, not strengthen, Iran's hand in Geneva and will hopefully serve to convince our Russian and Chinese friends that the Iranian regime is not a credible actor nor a reliable trading partner.

After this disturbing but strangely predictable week of Iranian regime behavior, American negotiators will head to Geneva. This is the first official and direct meeting with Iranian negotiators in 30 years. Leading the American delegation is Ambassador Bill Burns, one of America's most respected diplomats. Having served in Russia, Ambassador Burns is well placed to address the complex international dimensions to this diplomatic problem. We will be well represented in Geneva, and I wish Ambassador Burns and his team all the best in what will surely be a challenging assignment.

Iran is not going into these negotiations on sure footing, while the international community has never been more united. Led by the United States, Britain, Germany, and France, opposition to Iran's nuclear program is based in fact, rooted in a willingness to engage, and backed up with a clear and firm message: An Iran with nuclear weapons is unacceptable under any circumstances. Let me repeat. An Iran with nuclear weapons is unacceptable under any circumstances.

This message is gaining stronger resonance with Russia and China. The Russian President's comments at the University of Pittsburgh last week indicated a willingness to consider sanctions. This is a potentially remarkable breakthrough because if the Russians are willing to support international sanctions, the Chinese could be left alone among the P5+1 group in that determination. While China relies on Iran for substantial fuel imports, I trust they are carefully weighing their need for energy against Iran's increasingly erratic and irresponsible behavior. The opportunity cost of doing business with this regime has increased considerably and may now be too high a price to pay. I hope the Chinese will support international efforts to pressure this Iranian regime at this critical time with the understanding that these efforts could ultimately result in a more reliable and stable partner in Tehran.

It is next to impossible that the Iranian regime will be able to prove that its nuclear sites are for peaceful purposes by this Thursday. The Obama administration needs to be ready to move quickly and build on international momentum created over the past week to pressure this regime. That is why we in the Senate need to be ready to play our part, support the administration, and move on sanctions.

We currently have two proposals on Iran pending before us. First, the Iran Sanctions Enabling Act is a measure introduced by Senator BROWNBACK and myself. We introduced this bill last May. This would allow State and local government pension funds to divest from companies that do more than $20 million in business with the Iranian energy sector. The second bill, the Iran Refined Petroleum Sanctions Act, introduced by Senators BAYH and KYL, explicitly empowers the President to impose new economic sanctions on foreign firms involved in the export of gasoline and other refined petroleum products to the Islamic Republic of Iran. I am cosponsor of this bill, along with more than 75 of my Senate colleagues.

The Iran Sanctions Enabling Act is modeled on similar legislation passed in response to the genocide in Sudan. Eighteen State legislatures have passed individual Iran sanction measures, and our legislation would bring these State efforts into line with Federal law. When President Obama was in the Senate, he introduced an earlier version of this legislation. It was right in 2007, and it is right in 2009.

Analysts have estimated that Iran requires $20 billion annually in investments for its oil and natural gas sector. This sector directly provides funding for Iran's nuclear program, as well as its support for international terrorism. Iran will only cease its illicit nuclear program, end its support for terrorists in Hamas and Hezbollah, and stop arming militant groups in Iraq when it is compelled to pay an economic price.

We are entering a critical phase in President Obama's strategy of engagement with Iran where Tehran will face a true test. I hope the October 1 negotiation will lead to a freeze in Iran's nuclear enrichment efforts and ultimately a nuclear weapons-free Iran. Will the regime accept the President's genuine offer of dialog and comply with international nuclear standards or will it continue a losing strategy that serves to deepen its own isolation? These are questions for the Iranian regime, and they must answer these questions.

If last week is any indication, Congress should be prepared to hand the President the leverage he needs to send a message to the regime that America cannot and will not accept an Iran with nuclear weapons. The administration needs all the tools at its disposal to increase pressure on the regime diplomatically, politically, and through more stringent economic sanctions.

I call on my colleagues to listen to legislatures in so many States across the country that have passed divestment measures already. The American people do not want anything to do with investing in this regime. Let's pass divestment and petroleum sanctions and send a message to this regime and to the international community that a nuclear-armed Iran is unacceptable.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 2558

Mr. INOUYE. Mr. President, earlier, the Senator from Arizona raised concerns that the Committee on Appropriations had reduced funding in the operation and maintenance accounts. As I noted in my opening statement, this committee of ours reviews the entire budget and adjusts funds based on that review. That review came out with various results, and I would like to discuss some of them with you.

Before I do the analysis, I would just point out to my colleagues the budget that we are considering at this moment was formulated about a year ago—a year ago. That is when the process began. I am certain all of us will agree that since that time much has changed. Therefore, the committee believed we owe it to the Senate to apply the funds we recommended where they are most needed at this moment, not where they were needed a year ago.

For example, the reductions to operations and maintenance programs we recommended are based on a lack of justification or of changed requirements. The funds are not reduced because of a need to transfer funding to other appropriations.

The Senator from Arizona suggested we are taking out certain funding to pay for earmarks. The O&M accounts—operation and maintenance accounts—were reduced in this fiscal year 2010 base budget for many reasons, and just let me explain a few.

Five hundred million dollars, or half a billion dollars, was not a cut as suggested by the Senator from Arizona, but it was, rather, a transfer from the base budget request to the overseas contingency operations budget because the resources for certain programs were more appropriately funded for the Iraq and Afghanistan war. This is what they suggested.

One hundred million dollars was reduced based on administrative savings proposals. In April of this year the Office of Management and Budget was directed by the President to work with agencies to identify cuts to their administrative budgets separate and apart from those identified by the fiscal year 2010 budget—beyond that.

The DOD savings identified by the administration was $100 million in fiscal year 2010, and we allocated these funds to other worthy projects.

Finally, $100 million was cut from the Security and Stabilization Program because that was not authorized by the Senate Armed Services Committee.

Mr. President, we do this type of review every year. Every year someone complains their programs are cut, but we stand by our recommendations. We do more to enhance the readiness of the forces in this bill than was requested. Keep in mind since this budget was drafted, we have requested and added 30,000 more troops. We do so by providing equipment to our National Guard and Reserves. Everyone supports the National Guard, but we give them secondhand tools. It is about time they got some good ones. We do so by applying resources to buy MRAPs to protect our troops. And, yes, we do so to buy more C–17s to carry our forces wherever our leaders send them.

I thank the Chair.

Mr. LEVIN. Mr. President, I support the McCain amendment that would strike the $2.5 billion in additional funding for C–17 aircraft in the committee-reported bill and restore serious cuts that were made in the readiness accounts, in part to shift funds to support continued C–17 production.

Terminating production, like closing a base, can involve some economic loss for the communities involved. It involves pain—we understand that—up close and personal. But we must do so from time to time and make these difficult decisions. We have to do that for what is best for the Nation and for the men and women in the Armed Forces because, as Secretary Gates said in a letter to me today expressing support for ending C–17 production: The Department does not need additional C–17s to meet strategic needs.

First, I want to agree with Chairman INOUYE that the C–17 is a fine aircraft. I have been a strong supporter of the C–17 program, even when it was having growing pains early in the program. If we did not already have a C–17 aircraft fleet, we would have to create one. But this is not a question of whether we should buy the C–17. We have bought them, for a total of 213 aircraft. It is a question of ''How many C–17s do we need?''

On that very point, I wrote a letter to the current Chief of Staff of the Air Force, General Schwartz, who was then commander of the U.S. Transportation Command, on November 6, 2007.

I had asked for his professional opinion as to whether we needed C–17 aircraft beyond the 190 C–17 aircraft the Air Force had already bought, and he gave us his personal and professional opinion. He said:

> Since you asked for my personal and professional opinion, I believe that 205 C–17s and 111 C–5s is the correct fleet mix for the future.

He explained how he reached that opinion.

Mr. President, I ask unanimous consent that my letter to General Schwartz and his letter to me be printed in the RECORD, and also a letter I received from Secretary Gates be printed in the RECORD.

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

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC, November 6, 2007.

General NORTON A. SCHWARTZ, USAF,
Commander, U.S. Transportation Command, Scott AFB, IL.

DEAR GENERAL SCHWARTZ: The conferees on the National Defense Authorization Act for Fiscal Year 2008 are meeting now to reach agreement on the contents of this bill. One of the issues before the conferees is the question of buying more C–17 aircraft as recommended in the House-passed bill.

Before we come to a conclusion on the best way to proceed, we need to hear your personal and professional opinion on two issues: (1) what is your requirement, if any, for C–17 aircraft beyond the 190 C–17 aircraft that the Air Force has already bought; and (2) what is the basis of your requirement, if any, for aircraft beyond the 190 C–17 aircraft that the Air Force has already bought.

Due to the urgency of completing our conference, we appreciate receiving your response to these questions no later than 5 p.m., Tuesday, November 6, 2007.

Sincerely,

CARL LEVIN,
Chairman.

U.S. TRANSPORTATION COMMAND,
Scott Air Force Base, IL, November 6, 2007.

Hon. CARL LEVIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR LEVIN: Sir, thank you for the opportunity to respond to your questions concerning the strategic airlift fleet. I support the programmed strategic airlift fleet of 180 C–17s, extended by the Fiscal Year 2007 Bridge Supplemental to 190 aircraft, combined with 111 modernized and reliability improved C–5s. This fleet mix, augmented with the capability of the Civil Reserve Airlift Fleet (CRAF), provides sufficient airlift capacity to meet strategic and operational objectives during large-scale deployments, while supporting other high priority operations and forward deployed forces,

However. the outcome of the C–5 modernization program will have a direct impact on the capacity the C–17 will shoulder. Therefore, given the uncertainty surrounding the C–5 modernization program, I cannot recommend terminating C–17 production at this time.

Since you asked for my personal and professional opinion, I believe 205 C–17s and 111 C–5s is the correct fleet mix for the future. I reach this opinion by combining the analysis of available million-ton-miles per day (MTM/D) capability, fleet mission capable rates, the annual flying hour program, average cost per flying hour, total number of organic aircraft tails, available pallet capacity, and average age of the fleet. Taking these factors together, I personally conclude 205/111 is the sweet spot.

My top airlift priority, however, remains the recapitalization of our aging tanker fleet. The KC–X will not only fulfill its primary refueling role, but will multiply our transportation options. The strategic airlift fleet mix should be calibrated as necessary to account for this strategic necessity and to ensure we don't over-build overall organic capacity to the detriment of our commercial partners.

Thank you for considering my input on these very important issues. And as always, thank you for the outstanding leadership you provide our country and for the excellent support you provide the Armed Forces of the United States.

Sincerely,

NORTON A. SCHWARTZ,
General, USAF, Commander.

THE SECRETARY OF DEFENSE,
Washington, DC., Sept. 29, 2009.

Hon. CARL LEVIN,
Chairman,Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing as a follow up to our discussion last week regarding the retirement of strategic airlift aircraft.

The Department fully supports the language in Section 311 of the Supplemental Appropriations Act of 2009 (Public Law 111–32) which requires a minimum of 292 strategic airlift aircraft as reflected in the Department's 2005 Mobility Capability Study.

Since the release of MCS–05, Congress has funded an additional 33 C–17s the Department did not request. The addition of these C–17 aircraft influenced our decision to upgrade only 52 of 111 C–5s with the Reliability Enhancement and Re-engining Program (RERP). Congress is now considering adding another 10 C–17s in the FY2010 budget.

The Department's current fleet of 324 aircraft (213 C–17/111 C–5) is in excess of strategic airlift needs, driving increased operating costs at the expense of other priorities. Each C–5A costs over $13 million in annual operating expenses. Since we are over our current requirement by eight aircraft, as determined by the analysis conducted during the C–5 RERP Nunn-McCurdy recertification, it costs the Department over $100 million a year in excess expenditures. These costs will only grow if we receive additional C–17s and/or delay the ability for the Department to retire excess aircraft.

Initial indications from Mobility Capability Requirements Study 2016 show the strategic balance will not fundamentally change. This leads me to believe: (1) the Department does not need additional C–17s to meet strategic needs; and (2) the Department needs to begin shedding excess strategic airlift inventory by retiring a portion of the C–5A fleet now. The Department requests your support and authority to allow the proper management of the strategic airlift fleet to meet the Nation's requirements.

Thank you for your strong interest and continued support of the Department.

Sincerely,

ROBERT M. GATES.

Mr. LEVIN. Mr. President, for those members of the Senate not familiar with the phrase ''personal and professional opinion,'' let me explain. In the Armed Services Committee, we require that military officers, appointed to senior positions such as the Transportation Command position, affirm that, when asked for their personal and professional opinion on any matter, they are obliged to give their own opinion, whether that opinion agrees with that of the Secretary of Defense, the President, or anyone else in the executive branch.

General Schwartz replied to my letter on November 6, 2007:

> Since you asked for my personal and professional opinion, I believe that 205 C–17s and 111 C–5s is the correct fleet mix for the future. I reach that opinion by combining the analysis of available million-tonmiles per day (MTM/D) capability, fleet mission capable rates, the annual flying hour program,

average cost per flying hour, total number of organic aircraft tails, available pallet capacity. And average age of the fleet. Taking these factors together, I personally conclude 201/111 is the sweet spot.

It is clear from his letter that General Schwartz and the members of TRANSCOM had given serious thought to the question of how many C–17s we should have.

More recently, in the fiscal year 2008 Defense Authorization Act, we required that the Department conduct a Study on Size and Mix of Airlift Force. That study was conducted by the Institute for Defense Analyses, IDA, and was completed in February, 2009. Among the questions that the study answered were the following:

What are the cost and other implications for stopping production of the C–17 line and then restarting it later, if needed?

Our assessment of the C–17 line shutdown and restart is that continued production, even at low rates, is expensive relative to restart costs. Moreover, under the scenarios and other assumptions considered in this study, additional C–17s were not needed to meet the MCS (Mobility Capability Study) moderate-acceptable-risk delivery rates used as a benchmark by the analyses conducted here. We also found that retiring C–5As to release funds to buy and operate more C–17s is not cost-effective.

Mr. President, the time has come to stop C–17 production at 213 C–17 aircraft. That is all we need to buy, that is all we can afford to buy, and that is all we should buy.

The money that would be freed up by the McCain amendment would be transferred to the operation and maintenance, O&M, accounts. The bill cut roughly $2.4 billion from the budget request. I fear that this overall reduction could force the Department to make serious reductions in O&M activities, if not, in fact, forcing the Department to ask for another supplemental funding request. We should do all we can to avoid that possibility.

Mr. CONRAD. Mr. President, I rise to offer for the record, the Budget Committee's official scoring of H.R. 3326, the Departments of Defense Appropriations Act for fiscal year 2010.

The bill, as reported by the Senate Committee on Appropriations, provides $636.3 billion in discretionary budget authority for fiscal year 2010, which will result in new outlays of $401.7 billion. When outlays from prior-year budget authority are taken into account, discretionary outlays for the bill will total $646 billion.

The Senate-reported bill is $1 million below its section 302(b) allocation for budget authority and is $28 million below its allocation for outlays.

The bill includes $128.2 billion in budget authority designated as being for overseas deployments and other activities. Pursuant to section 401(c)(4) for the 2010 Budget Resolution, adjustments to the Appropriations Committee's section 302(a) allocation and to the 2010 discretionary spending limits were made for that amount and for the outlays flowing therefrom.

No budget points of order lie against the committee-reported bill.

I ask unanimous consent that the table displaying the Budget Committee scoring of the bill be printed in the RECORD.

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

H.R. 3326, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2010

[Spending comparisons—Senate-Reported Bill (in millions of dollars)]

	Total
Senate-Reported Bill:	
Budget Authority	636,270
Outlays	646,043
Senate 302(b) Allocation:	
Budget Authority	636,271
Outlays	646,071
House-Passed Bill:—	
Budget Authority	636,293
Outlays	647,932
President's Request:—	
Budget Authority	640,137
Outlays	650,641
SENATE-REPORTED BILL COMPARED TO:	
Senate 302(b) allocation:	
Budget Authority	−1
Outlays	−28
House-Passed Bill:	
Budget Authority	−23
Outlays	−1,889
President's Request:	
Budget Authority	−3,867
Outlays	−4,598

NOTE: The table does not include 2010 outlays stemming from emergency budget authority (BA) provided in the 2009 Supplemental Appropriations Act (P.L. 111-32) but does include outlays from regular BA designated as being for overseas deployments and other activities. The 2010 BA total includes $5 million in non-defense BA resulting from that Act. The remaining BA is classified as defense.

EXECUTIVE SESSION

NOMINATION OF JEFFREY L. VIKEN TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF SOUTH DAKOTA

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

The assistant bill clerk read the nomination of Jeffrey L. Viken, of South Dakota, to be United States District Judge for the District of South Dakota.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. JOHNSON. Mr. President, as you know, one of the duties granted to the Senate in the Constitution is the advice and consent of judges appointed by the President to the bench. The lifetime appointment of a judge is a very serious decision, one that has a lasting impact on our democracy.

Today the Senate takes up the nomination of Jeff Viken to be Federal district judge for South Dakota. It is this nomination that I wish to speak of today.

So far this Congress, under the new President, has confirmed two judges. One of those judges is Supreme Court Justice Sonia Sotomayor and the other is a Second Circuit judge. I am proud to have a South Dakotan as the third judge to be confirmed by the Senate. However, we are 9 months into this new administration, and we have only confirmed two judges.

I must say I think the process of nominating and confirming judges has become increasingly overpoliticized. While I believe a President should have some latitude in selecting judges, they should not be ideologues.

Jeff attended law school at my alma mater, the University of South Dakota, where our attendance overlapped. I received my law degree in 1975, and Jeff received his law degree in 1977. Jeff has served as an assistant U.S. attorney and acting U.S. attorney for South Dakota before going into private practice. His extraordinary reputation of skill and integrity during his years of public and private law practice will translate well and benefit this court. The same can be said of his tenure as the Federal Public Defender for North and South Dakota, a job he has held since 2003.

Regarding his nomination, Jeff received a ''well qualified'' rating from the American Bar Association. It is clear he has an accomplished résumé and many years of public service. It is a great honor that President Obama has placed on Jeff. We are very fortunate to have a great member of the South Dakota legal community nominated to this post. Jeff has many years of public service, and we look forward to his future work for the people of South Dakota. Most importantly, his nomination to the bench is a victory for justice and the rule of law, not only for South Dakota but for our Nation.

I have known Jeff for a long time. I find him to be a nominee of good moral character and standing in the community. It is with great satisfaction that I will cast my vote today for the confirmation of Jeff Viken to be the next U.S. Federal district judge for South Dakota. I urge my colleagues to support this very qualified nominee.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I thank Senator JOHNSON for his comments and value his opinion on this nomination. I look forward to seeing this nominee confirmed.

The confirmation process we have in this country is a very important matter. Our Democratic colleagues are, understandably, inclined to be supportive of whomever the President puts up. It has been a recognized responsibility for the minority party, the party that is not of the President's party, to ask questions and dig into the backgrounds of these nominees and move the good ones and raise the proper questions if there are problems.

Mr. Jeffrey L. Viken has an impressive background. Early in his career, he was an Assistant and Acting U.S. attorney. He is a member of the trial lawyers plaintiff bar association in South Dakota. He has been in private practice for 22 years, and for the last 6 years he has been a Federal Public Defender where he defends criminal cases. So he has been a prosecutor and a public defender. I guess that is a pretty good match, and I am happy we were

able to work out this agreement with the majority and process this nomination very quickly. Actually, he was voted out after his first appearance before the Committee and is already on the floor.

But I would note for some people who say there has been a dragging of feet on the nominations that the President did not send this nomination forward, his first district court nominee to the Senate, until June 25, a few months ago, when the Senate and the Judiciary Committee were consumed with the Supreme Court nomination of now-Justice Sotomayor. Understandably, Chairman LEAHY could not and did not report his nomination until after that confirmation process was over, until after Labor Day. We were then able to come to a time agreement and also to vote on the nomination of Judge Gerard Lynch, who is a highly able nominee but an activist judge with a philosophy too close, by my way of thinking, to Justice Brennan on the Supreme Court for whom he clerked. So I think it is healthy for us to ask questions. I voted for Judge Lynch for the Second Circuit, and he was confirmed by a very large vote.

We will continue to work with the majority party and the President and move the nominees at an appropriate pace.

I wanted to note a little bit more about the pace of nominations. You know, it is not possible for the Senate to confirm a nomination until the President has nominated someone. I have heard my colleague, the Chairman, Senator LEAHY, say that we haven't had enough confirmations, but I would note that there is an 11-percent vacancy rate in the Federal courts. That is not an extraordinarily high vacancy rate. It takes some time to do background checks and for the President to consider the people he might want to nominate and to consult with Members of the Senate as he does so. I would note that at this moment there are 74 Federal District Court vacancies—Judge Viken is nominated for one—but there are only 9 nominees before the Senate. There are 28 circuit and district court seats that are deemed to be judicial emergencies, but only 6 nominees have been submitted to the Senate for those judicial emergency seats. We can't confirm people until they are nominated. We can't do a background check on nominees until they have been nominated. We can't have the information and their records and their FBI backgrounds and the bar association evaluations take place until they have been nominated.

I would just make my commitment that we will continue to move nominees like Mr. Viken in a timely fashion. I reviewed his record. I have also carefully reviewed his responses to questions from the Senate Judiciary Committee. One of his answers, I have to note, was troubling to me. He stated that he believes he fits President Obama's standard for the types of judges he will nominate to the Federal courts; that is, he meets the President's ''empathy standard.''

President Obama described that standard as follows:

> We need somebody who's got the heart, the empathy, to recognize what it's like to be a teenage mom, the empathy to understand what it's like to be poor, or African-American, or gay, or disabled, or old. And that's the criteria by which I am going to be selecting my judges.

In 2005, when then-Senator Obama was in the Senate and he explained on the floor his vote against Chief Justice John Roberts, who I think is one of the finest nominees we have seen in decades and whose testimony before the Judiciary Committee was stunning in its impressiveness and his grasp of the legal issues, his comprehensive knowledge of how the Court worked, and cases—there was not a case brought up that he didn't seem to fully know about. Virtually every case the Supreme Court had ever written he seemed to be knowledgeable about. It was just a tour de force. Senator Obama voted against Judge Roberts and stated that 5 percent of cases are determined by ''one's deepest values and core concerns . . . and the depth and breadth of one's empathy.'' We can only take this to mean that the President believes that in 5 percent of all cases, judges should not set aside their personal beliefs, biases, or experiences. I think this is a radical and a dangerous departure from the most important pillar, the fundamental pillar of the judicial system—judicial impartiality.

Whatever the empathy standard is, it is not law, and we have courts of law in this country. Whenever a judge employs his personal beliefs, biases, or experiences to make a decision that favors one party, is it not true that he necessarily has, therefore, disfavored the other party as a result of his personal beliefs and biases? For every litigant who benefits from the judge's so-called empathy, there is a litigant who loses not on the basis of law but because the judge did not identify with them.

When people are nominated to our Federal bench, we ask them to take a judicial oath before they take office. The oath embodies the time-honored American tradition of blind justice. The oath says this:

> I . . . do solemnly swear that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent upon me . . . under the Constitution and laws of the United States, so help me God.

I am pleased to say the Supreme Court has not yet struck down ''so help me God'' in the oath, and hopefully they never will. I think the President's standard for judicial nominees plainly conflicts with that oath.

We have had a big discussion about that, and it is not a little bitty matter. It is not a small matter. Judges take the oath to be impartial. I practiced law in Federal court for many years, and I have always believed and expected that a judge who heard my case would rule on the law fairly and objectively. If I lost and did not have sufficient law or evidence and logic to support my position, I did not expect to prevail. That is the kind of concept that underlies American justice.

Aside from nominee David Hamilton, almost every one of President Obama's nominees, including Justice Sotomayor, has rejected outright the empathy standard. So at first blush, I found Mr. Viken's answer that he believes he fits that standard to be concerning. However, his answers to questions we submitted to him for the record provide maybe a more complete view. This is what he said in his answer in writing:

> A judge's consideration of a case must always be governed by impartiality, evenhandedness, attention to the facts presented by the parties, and respect for established law. Empathy is a personal characteristic which may assist a judge in analyzing the human circumstances which bring people before the court. But the law and not the personal experiences of jurists is the path to justice in considering each case.

I think that is OK. I am not sure how you can have any empathy—empathy is a personal characteristic, maybe? I would hate to disagree with the President who nominated me, but that is a pretty good statement overall.

He also stated he believes that, ''The role of a Federal district judge encompasses diligent legal scholarship''—that is true—''a strong work ethic''—true—''impartial and dispassionate consideration of proven facts and reasoned legal arguments, fidelity to binding and persuasive precedent, and respect for all who appear before the court.''

I think that is good statement. I think if he will conduct himself on the bench according to those standards he will do well. And I believe he will.

I am glad to see he is an honors graduate, but he didn't go to some of these schools, Senator JOHNSON, he went to school in South Dakota; he has practiced law before judges over the years, a lot of practice; and in the course of that, you learn that judges really do—the good judges—consistently try to reach the right dispassionate result.

I think he may have made some statements about empathy that are not perfect, but my judgment is that he has been in the courtroom and he has been before good judges. I am hopeful he is going to be a very good judge.

We will see. I think the issues become even more problematic when someone is nominated for the Supreme Court or for a circuit court because those higher courts seem to be the ones who feel less compunction in allowing their personal views to influence cases. Because this nominee is nominated to a seat on the district court and is confined not only by the U.S. Supreme Court but also by his circuit, the circuit precedent, and because he stated he believes the role of a judge entails the impartial and dispassionate consideration of proven facts and reasoned

legal arguments, fidelity to binding and persuasive precedent, I would certainly give him the benefit of doubt and vote in favor of his nomination. I am hopeful he will follow through on those statements and will interpret the law as written, refraining from imposing personal views in his decision and will basically follow the oath to uphold the Constitution, first and foremost. Even if he didn't like it, he should uphold it.

In closing, I would like to quote from an essay by the former chairman of the Judiciary Committee, Senator HATCH, which was published on Constitution Day. He said this:

> The Constitution—its words and their meaning—was established by the people, can only be changed by the people, and is sacredly obligatory upon all government, including judges. That is why in the debate on judicial selection is really a debate over judicial power. It is a debate over whether the Constitution controls judges or judges control the Constitution; over what the Constitution really is, with nothing less than liberty itself at stake.

I think that is an eloquent statement of the role of a judge, and why at its most base level, policy in a democracy must be set by the elected branches who are accountable to the people.

Judges are supposed to be neutral arbiters of the law, deciding a case based on the law and facts, without allowing their personal, political, or ideological views or biases to enter into the decision-making process. That is why they put on a robe, to suggest their impartiality. That is why they take the oath I quoted from. And that is the key ingredient of our legal system, the greatest legal system the world has ever known.

I yield the floor.

The PRESIDING OFFICER (Mr. LAUTENBERG.) Who yields time? If no one yields time, time will be divided equally.

Mr. LEAHY. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The Viken nomination is the pending question.

Mr. LEAHY. Mr. President, how much time remains on both sides?

The PRESIDING OFFICER. The chairman has 17½ minutes remaining, and 5½ remains with the vice chairman.

Mr. LEAHY. Mr. President, we are considering the nomination of Jeffrey Viken for a lifetime appointment to the U.S. District Court for the District of South Dakota.

President Obama nominated Mr. Viken with the bipartisan support of both Senators from South Dakota, Senator JOHNSON and Senator THUNE. Mr. JOHNSON, the distinguished senior Senator from South Dakota spoke just a moment ago about his strong support for this nominee.

Even though we are almost at the last day of September, this is only the first Senate confirmation for a Federal district court judge, and the first to fill 1 of 74 current Federal trial court vacancies.

There are more than 90 current vacancies throughout the Federal judiciary, and we are soon going to be at near record levels. I accommodated the Ranking Member and other Republicans on the Judiciary Committee by postponing a hearing on Mr. Viken's nomination while we considered the recent Supreme Court nomination, or his nomination would have come to the full Senate earlier. But I am pleased that the committee unanimously reported the nomination at the beginning of this month by a voice vote. I think that the vote tonight, I can virtually guarantee you, will be an overwhelmingly positive vote. I hope it is a sign that we might finally, finally start making some progress on judicial nominations, and do it expeditiously.

The Senate has to do a better job of restoring our tradition of regularly considering qualified, noncontroversial nominees to fill vacancies on the Federal bench without needless and harmful delays.

As I look around this Chamber, I believe I have been here longer than anybody else who is presently on the floor. I saw my distinguished colleague Senator INOUYE step off the floor, who has served here longer than I have. But I have been here 35 years. I have been here with both Republican and Democratic Presidents. I have never seen a situation where there is this kind of slow walking of nominations. We have got to go back to the way we have traditionally done it for the good of the country.

I was briefly chairman of the Judiciary Committee during President Bush's first term. And even though we had the unfortunate experience of 61 of President Clinton's nominations being pocket filibustered by a then-Republican majority, when I came in during that less than a year and a half, we confirmed 100 of President Bush's judicial nominees. I think it is an all-time record in speed in getting nominees through. That was by a Democratic majority with a Republican President.

I do want to thank the Committee's ranking member, Senator SESSIONS. I see Senator SESSIONS on the floor. I do want to thank him. I had, as I said, agreed to hold back this nominee, the Viken nomination, because of the nomination for Sotomayor, to give time to prepare. But I do want to thank him. After we confirmed Judge Sotomayor to be a Justice on the U.S. Supreme Court, we moved quickly Mr. Viken's nomination through the committee at our business meeting on September 10 without an unnecessary holdover period. Unfortunately, now that it has been on the Senate Executive Calendar, it still has taken 2½ weeks to schedule Senate approval of a noncontroversial nominee who is probably going to be unanimously confirmed, and should be.

Mr. Viken has a wide range of experience. He has been both prosecutor and defender. He is currently the Federal Defender for the combined districts of North Dakota and South Dakota. It is not just the population, but for those of us who come from New England, the area covered in these districts is enormous.

He served as an Assistant U.S. Attorney and as Acting U.S. Attorney for South Dakota. He spent more than two decades in private practice. His nomination received a rating of ''well qualified,'' from the American Bar Association's Standing Committee on the Federal Judiciary. I urge Senators to give him a strong bipartisan vote, and then do a better job of filling the rising number of judicial vacancies to ensure that justice is not delayed or denied to any American because of overburdened courts.

I hope instead of withholding consent and threatening filibusters of President Obama's judicial nominees, the other side would work together to treat his nominees fairly, as I did with President Bush's nominees. I point out, by this time in President Bush's first term, we had already confirmed six of his nominations to the Federal circuit and district courts. Now, nine months into President Obama's first term, we have confirmed only one of his lower court nominees, despite the fact that President Obama made his first nomination two months earlier than President Bush did.

We can do better. It is not just that the Senate can do better, the American people deserve better.

After months of delay on September 17, the Senate finally confirmed Judge Gerard Lynch to serve on the Second Circuit. I know that circuit well. It covers the States of Vermont, New York, and Connecticut. Despite the fact that Judge Lynch's nomination was noncontroversial, despite the fact that it was reported out of the committee unanimously with the strong support of both Republican and Democratic members, it still took more than three months after his nomination was reported by the committee for the Senate to confirm it. Delayed. Delayed. Delayed. You would think there might be some controversy. But when we finally voted, the vote was 94 to 3. It was being held up for months because three Members out of 100 Senators wanted to hold it up? That is not being responsible. That is not showing the deference to the judiciary that we should show.

Thirteen nominations reported by the Judiciary Committee remain pending on the Senate's Executive Calendar, seven of them from back before the last recess. Five of these nominations are for appointments to be Assistant Attorneys General at the Department of Justice. Five out of a total of 11 divisions at the Department remain without Senate-confirmed Presidential nominees—the Office of Legal Counsel, the Civil Rights Division, the Tax Division, the Office of Legal Policy, and the Environment and Natural Resources Division.

Just think of that: nominees to head five out of a total of 11 divisions at the

Justice Department are being held by Republicans even though the President has made the nominations and even though they have passed out of the Senate Judiciary Committee. If any Senator does not like a nominee, vote against them. But let's have a vote up or down.

President Obama made his first judicial nomination back in March. I remember it was snowing like mad. He nominated David Hamilton to the Seventh Circuit. That nomination has been on the Executive Calendar since early June, even though it has the support of the senior most Republican in the Senate and one of the most distinguished Senators of either party who has ever served, Senator LUGAR.

The nomination of Judge Andre Davis to the Fourth Circuit was reported by the committee on June 4 by a vote of 16 to 3. We cannot get it considered by the Senate. The nomination of Judge Beverly Baldwin Martin to the Eleventh Circuit was reported unanimously from the committee by voice vote on September 10 and is strongly supported by the two Republican Senators from her State, but still we cannot get it scheduled or considered.

Federal judicial vacancies will soon number 120 unless we start moving forward. I mention that just because we should have a history before us.

At least the one bright spot is moving Mr. Viken's nomination. At a quarter past 5, it is Mr. Viken. By a quarter past 6, it will be Judge Viken. I congratulate him and his family. I remember him coming before our committee—a wonderful person, a wonderful family. I can see why the two Senators—the senior Senator, a Democratic Senator; the junior Senator, a Republican Senator—support him. He should be a judge. But then let's start moving these nominations a little more expeditiously.

Mr. President, what is the time remaining?

The PRESIDING OFFICER. The Senator has 6 minutes 45 seconds remaining, and the minority has 5 1/2 minutes remaining.

Mr. LEAHY. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be run equally.

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

The clerk will call the roll.

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

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

Mr. LEAHY. Mr. President, I ask for the yeas and nays on the nomination.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Jeffrey L. Viken, of South Dakota, to be U.S. district judge for the District of South Dakota?

The clerk will call the roll.

The assistant bill clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 299 Ex.]

YEAS—99

Akaka	Enzi	McConnell
Alexander	Feingold	Menendez
Barrasso	Feinstein	Merkley
Baucus	Franken	Mikulski
Bayh	Gillibrand	Murkowski
Begich	Graham	Murray
Bennet	Grassley	Nelson (NE)
Bennett	Gregg	Nelson (FL)
Bingaman	Hagan	Pryor
Bond	Harkin	Reed
Boxer	Hatch	Reid
Brown	Hutchison	Risch
Brownback	Inhofe	Roberts
Bunning	Inouye	Rockefeller
Burr	Isakson	Sanders
Burris	Johanns	Schumer
Cantwell	Johnson	Sessions
Cardin	Kaufman	Shaheen
Carper	Kerry	Shelby
Casey	Kirk	Snowe
Chambliss	Klobuchar	Specter
Coburn	Kohl	Stabenow
Cochran	Kyl	Tester
Collins	Landrieu	Thune
Conrad	Lautenberg	Udall (CO)
Corker	LeMieux	Udall (NM)
Cornyn	Leahy	Vitter
Crapo	Levin	Voinovich
DeMint	Lieberman	Warner
Dodd	Lincoln	Webb
Dorgan	Lugar	Whitehouse
Durbin	McCain	Wicker
Ensign	McCaskill	Wyden

NOT VOTING—1

Byrd

The nomination was confirmed.

The PRESIDING OFFICER. A motion to reconsider is considered made and laid upon the table. The President shall be notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

The Senator from North Dakota is recognized.

MORNING BUSINESS

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

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

The Senator from Iowa is recognized.

AMERICA'S FOOD CRISIS

Mr. GRASSLEY. Mr. President, I rise today to respond to Bryan Walsh's recent article, published August 31, 2009, in Time Magazine, entitled ''The Real Cost of Cheap Food.''

I ask people to read the article and, as you read it, take into consideration my view of it, which is not very positive. Unfortunately, I see this article as one of the most skewed and one-sided articles I have ever had the opportunity to read, particularly in the mainstream media.

This report was far from objective journalism. It seems to me that when people are talking about America's food crisis and how to fix it, it ought to be very intellectually accurate.

Before outlining the numerous factual errors the author presents in his article, I will mention that I support organic and sustainable agriculture. In fact, Norman Borlaug, father of the green revolution, from Iowa, is credited with creating a sustainable agricultural system decades ago. And as you may know, the Nobel Peace Prize winner of 1970, Norman Borlaug—the person I just referred to—recently passed away at the age of 95.

This article refers to the Niman Ranch. What Niman Ranch and other organic farmers across Iowa and our Nation are doing is to be commended. These producers are providing additional choices to consumers and creating highly profitable small farms which can help sustain rural communities. In fact, the National Agriculture Statistics Service reports that in 2007, 566 organic farms were located in my State of Iowa.

That being said, I am disappointed that an information source, such as I referred to by Time magazine, by the author, Mr. Walsh—previously Time magazine was known as a news magazine—has resorted to an inaccurate, incomplete, and unfair reflection of family farmers—I emphasize the word ''family'' in connection with farmers—from across the United States. So I will take a few minutes on the Senate floor to refute a few main points this author has made.

First, I wish to discuss how our Nation's farmers are stewards of our land, protecting and caring for their livestock and our environment.

Second, I wish to address population growth and the growing demands to produce safe and affordable food.

Finally, I will address how both organic agriculture and conventional agriculture serve complementary needs and can coexist in harmony.

As everybody in this body knows, I have been a family farmer all my life. Of course, I have to give credit to my son Robin for doing most of the work on the farm and a grandson in that farming operation. One thing you find out as a grandfather, when you have a grandson in a farming operation, is that grandfathers are not quite as important as they used to be.

My son Robin and I crop share our land, and we have taken great pride over the years in both caring for our livestock and conserving our natural

resources, while producing bountiful corn and soybean harvests. We are not unlike tens of thousands of other farmers across Iowa and this country whose livelihoods depend on taking care of our soil, water, and animals.

I give credit to the new occupant of the Presiding Officer's chair, Senator TESTER from Montana, for being another family farmer, as well, and being a good caretaker of the environment.

With final passage of the Food Conservation and Energy Act of 2008, also known as the farm bill, Congress made one of the largest commitments to conservation this Nation has ever seen. An additional $6 billion in new money was added for working lands programs, such as the Conservation Stewardship Program, the Wetlands Reserve Program, and the Farmland Protection Program.

Even on my own farm, we use no till for our beans, minimal tillage for our corn, and we put in wetlands, a waterway and a grass strip, even though we have mostly flat farmland. Robin and I are required to do this. We do it because we know, as stewards of our environment, our farm will benefit in the long run. In other words, it is economically good to be good stewards of the land. It puts money in your pocket. We will be able to then, in the final analysis, pass the operation down to our grandchildren and great-grandchildren.

That is one of the main points the author of the Time article, Mr. Walsh, totally misses. He basically demonizes production agriculture. Mr. Walsh implies that the only family farmers in our country are those who live on 30 acres of farmland. But nothing could be further from the truth. Family farmers can operate small farms, but they can also operate large farms. If given the opportunity, they want to be able to pass that farm on to future generations of the family.

It makes absolutely no sense to imply that these producers would purposely deplete our resources for a quick buck. There has never been a quick buck in farming, but it can provide, over a lifetime, a rewarding and sustainable lifestyle.

I am going to use three charts during my presentation. The first one is going to be used to refute some of the accusations that have been made.

Producers around the United States continue to become more and more efficient in their production practices. This chart shows that in the last 25 years, we have been able to produce more bushels of corn with less fertilizer. Now get this. Everybody thinks the commercial and family farmers are pouring on the fertilizer without any care whatsoever about the environment to produce, produce, produce. But that does not make you money, and particularly in recent years with the high increase in the price of phosphorous, potassium, and especially nitrogen, this is absolutely the wrong course to go if you are a farmer who thinks pouring more fertilizer on is going to make you more money.

What we show here is, in the last 25 years, we have been able to produce more corn with even less fertilizer. We can see it in the downward trends of nitrogen, phosphate, and potash. We use U.S. Department of Agriculture data compiled by the Fertilizer Institute that nitrogen, phosphate, and potash efficiency is growing in corn production.

To put it another way, we are growing more bushels of corn per pound of nutrient applied. This is in direct contradiction to the impression that Time magazine author Mr. Walsh makes with his statements.

We know the hypoxia is partly a natural phenomenon, but scientists generally agree that nitrates from agriculture and other manmade factors contribute to it. When the hypoxia zone forms—and most of the time we talk about this in the Gulf of Mexico—it does, in fact, displace fish. But it is particularly unfair to try to quantify impacts on the fishing industry because there is not sufficient data to back up that claim. Technology has allowed farmers to apply the exact amount of fertilizer in the right way so there is not excess.

However, even in organic farming, which the author seems to hold in the highest esteem, it uses manure from animals for fertilizer which also contains nitrogen. Soil naturally contains nitrogen that under certain circumstances of too much rain or too much moisture in the ground can eventually get into our streams. That is true whether it is from natural fertilizer or whether it is from commercial fertilizer.

Farmers for years have been employing conservation practices such as no till, buffer strips, and wetlands, just like I have on my farm, to prevent soil erosion and to keep runoff from going directly into the waterway. I anticipate, especially under this new farm bill, that these practices will grow.

In addition, research is starting to shift on hypoxia issues in regard to the Gulf of Mexico. There is increasing recognition that causes of hypoxia relate strongly to manmade alteration of the entire system, including channelization of the Mississippi, reversal of the Atchafalaya River in Alabama, and extreme loss of wetlands and barrier islands that filter nutrients and protect against storm surges, not solely nutrient issues, as this author would imply.

The U.S. Environmental Protection Agency, the EPA, Science Advisory Board has a hypoxia report out indicating that 22 percent of the nitrogen and 34 percent of the phosphorous loads can be attributed to point source rather than agriculture, as far as the hypoxia problem in the Gulf of Mexico is concerned.

In addition, the Environmental Protection Agency estimates that over 2 trillion gallons of untreated combined sewer overflow run into our Nation's waterways each year, and the Army Corps of Engineers' projects dump millions of yards of nutrient-rich soil into the Missouri and other rivers for habitat restoration purposes that also contribute.

These types of dredging projects in the Missouri River floodplain alone may represent as much as 8 percent of the spring's total phosphorous discharge, leading to problems in the Gulf of Mexico.

Technology in corn production in the United States over the last 100 years has been remarkable. From about 1860 to 1930, corn averaged just about 25 bushels per acre. Not until the 1950s through 1980s, when corn breeders began using double-cross and single-cross technology, did we see these great advances in yields of corn.

Just in the last 10 years, we have seen increased use of biotechnology which has provided yields over 150 bushels per acre. This author, Mr. Walsh, clearly views biotechnology as a bad thing when, in fact, traits such as drought resistance and nutrient-use efficiency are actually improving corn's performance with less inputs, as demonstrated by this chart.

Many of our technology companies are expecting their yield trends to exceed 300 bushels per acre in coming years. For someone such as me who has been farming for 50 years, it is almost unimaginable, but exciting at the same time, to have these projected yields we are hearing.

I wish to turn to another chart now. It deals with another issue that is very important for us to understand when we are talking about efficiency of agriculture and reducing pollution. In fact, in 1915, we used 90 million acres—in comparison to about 90 million acres, I think it is more like 87 million acres this year of corn being produced, or 2 years ago, 93 million acres of corn being produced. I am referring to 90 million acres in this picture. In 1915, 90 million acres of cropland in America were simply used to fuel our agricultural production.

So let's get it straight. It took 90 million acres of crops just to feed all the horses and all the mules that provided the work and the energy on our agricultural land before tractors were invented.

If you add up all the land in the United States being used to produce corn, wheat, and soybeans, it is about 224 million acres today. So less than 100 years ago, we would have been using nearly half the acres in the United States just to feed the draft animals that produced the power to till the soil and to produce those 25 bushels of corn per acre compared to the 150-some bushels per acre now that we will have in the United States this year of corn production.

By 2050, it is estimated that the world's population will exceed 9.3 billion people, compared to 6 billion people now. As the world demand for nutrient-rich food and protein continues to grow as both income levels and populations grow in developing nations,

America's farmers are ready to answer that call to help feed the increasing number of people around the world, and, most people would tell you today, not by putting more land into production but by getting more from each acre of land as that productivity and yield increase very dramatically, as it has in the past and will continue to into the future.

Mr. Walsh of Time magazine attacks animal agriculture throughout this article. His theme is that if an animal doesn't roam free on the western prairie and eat grass, it simply couldn't be healthy or safe to eat. Mr. Walsh cites the Pew Commission on Industrial Farm Animal Production in his analysis of why animals treated with antibiotics produce meat unsafe to eat. However, the American Veterinary Medical Association responded to the Pew report with a lengthy report of its own, which Mr. Walsh conveniently fails to mention, perhaps because the American Veterinary Medicine Association study said:

> A scientific human/animal nexus, connecting antimicrobial treatments in animals with food-borne or environmentally contracted human disease, has not been proven.

Livestock producers take very seriously their responsibility to provide safe and abundant food to the general public. Dairy, poultry, and livestock farmers have made a voluntary commitment to using antibiotics responsibly. By developing responsible-use guidelines, these industries have proactively taken steps to safeguard both human and animal health, and Mr. Walsh makes no mention of that.

On issue after issue, I have worked on my main priority: that the policy decisions we make must be based on sound science and not on political ideology. We have seen studies that indicate that the risk of foodborne bacteria on meat increases when antibiotics that help suppress animal disease are removed, actually making our food less safe to eat. Does Mr. Walsh take that into consideration?

We only have to turn to our neighbor across the Atlantic to see how a ban on antibiotics has played out. The European Union made a decision to phase out the use of antibiotics as growth promoters over 15 years ago, and in 1998 Denmark instituted a full voluntary ban, which in 2000 became mandatory. After the ban was implemented in 1999, pork producers saw an immediate increase in piglet mortality and post-weaning diarrhea.

Dr. Scott Hurd, a former U.S. Department of Agriculture Deputy Under Secretary for Food and Safety and professor at Iowa State University College of Veterinary Medicine, released a study which shows that when pigs have been sick during growth, they have a greater presence of food-safety pathogens on their carcasses when slaughtered.

I want to refer to what went on in Denmark with my third and last chart—the effects of banning antibiotics—and we have a Danish model here. It doesn't project very good healthy animal agriculture or safety for the consuming public. If this ban had resulted in improvements to public health—in other words, the ban the European Union put on antibiotics, and particularly in Denmark—suffering consequences such as piglet mortality would make sense. But the science does not back up that positive improvement in public health has occurred as a result of the Denmark ban. In fact, in 2002 the World Health Organization released a study on antimicrobial resistance and could find no public health benefit from the Denmark ban. It is true that overall use of antibiotics in Denmark has declined, but there has been a significant increase in the use of therapeutic antibiotics which are used to treat and control diseases. I think an interesting statistic is that in 2009 the use of therapeutic antibiotics in Danish pigs is greater than what was used to prevent the disease and to promote growth prior to the ban in 1999. So I think it is very easy to see that if you look at the science—and Mr. Walsh conveniently ignores it—the practice in the United States is superior to the practice of the ban in Denmark.

We had a 2009 Iowa State University study estimating that production costs would rise by $6 per pig in the first year of a prohibition if a similar ban were imposed in the United States as it is in Denmark. Over 10 years, the cumulative cost to the U.S. pork industry would exceed $1 billion. This would all be on top of the estimated $4.6 billion U.S. pork producers have lost since September 2007 due to a perfect storm of events within that industry.

The author, Mr. Walsh, also points to recent recalls in nuts, fruits, and vegetables as evidence that conventional agriculture is harmful and unsafe. What Mr. Walsh chooses to ignore is that salmonella and e. coli are naturally occurring organisms that, with proper handling, processing, and cooking, can be minimized or even eliminated. Organic agriculture is not somehow exempt from being affected by these bacteria, as Mr. Walsh might want us to believe.

In fact, one of the main challenges within our food safety system has been the perpetual underfunding of the Food and Drug Administration. I hope the Senate will be able to undertake comprehensive food safety reform yet this year and give very serious consideration and attention to the funding deficiencies of that agency.

American consumers demand not only a safe and abundant food supply but also an affordable selection to feed their families nutritious and healthy food. The author fails to recognize that personal choice is part of that equation. Ask any American consumer. While less than 1 percent of agriculture is farmed organically, as he points out, a simple economics lesson would tell us that supply and demand are in direct relationship to one another.

In 2008, Americans spent 9.6 percent of their disposable personal income on food expenditures. This has steadily decreased since the late 1920s, when nearly 24 percent of our income was spent for food intake. Our consumers have demanded an affordable food supply, and our agricultural industry has answered that call. Other nations with less developed agricultural industries than the United States spend anywhere from 12 percent to 45 percent of their income on food.

At the same time producers have become more efficient and are providing U.S. consumers with lower food costs, the farm share being retained by the producer—in other words, the family farmer—has been decreasing. For example, in the years 2000 to 2006, the farm value share ranged from 5 to 6 percent for cereals and bakery products compared to what is being paid at the retail level. Costs in packaging, processing, and transportation account for most of the cost at the grocery level. Conventional agricultural producers are not getting rich. Instead, they are producing the safest, most abundant, most reasonably priced food in the world for our consumers at a time when their share of the food value is not increasing.

Perhaps Mr. Walsh, the Time author, believes we should be spending a higher percentage of our income on food. However, because of the financial situation our Nation is facing, including families out of work and with lower disposable income, citizens would be outraged if suddenly their food expenditure skyrocketed. The Economic Research Service at the U.S. Department of Agriculture reported that total food expenditures for all food consumed in the United States was $1.165 trillion in 2008, a 3.3-percent increase from the $1.128 trillion in 2007. Prices are naturally rising because of the higher cost to do business, including transportation costs. But do we really think it is feasible to see these prices go even higher so that the author, Mr. Walsh, can further promote what I consider a political agenda? Growing all of our food organically will take more land, cost more money to produce, drive prices up, and ultimately make food even less affordable to those in need.

I appreciate the opportunities organic agriculture has made possible for farmers in my State of Iowa, and I am sure other Senators would say the same for their own States. It has truly allowed our smallest farmers to flourish and receive a premium for their crops and livestock. It has also promoted gardens and has helped us teach our children where their food comes from.

I agree with the author that the gardens of First Lady Michelle Obama and the U.S. Department of Agriculture are bringing more visibility to educating our consumers about where their food comes from. I commend them for highlighting the important issues relating to our health by eating fresh fruits and vegetables.

Organic agriculture and conventional agriculture can coexist. Both will be driven by demand, and both provide important choices for the U.S. consumer. Some consumers will shop for locally grown foods, others will shop for the cost effectiveness due to their tight household budgets.

It is time—it is time—for Time magazine and Mr. Walsh to start being honest with their readers. The next time the magazine wants to run a story that clearly reflects the author's personal views, it should identify that article as such. I expect the next article Time publishes on agriculture to be better researched and to present a more balanced view.

Mr. President, I yield the floor.

TRIBUTE TO DAVID C. PARRISH, JR.

Mr. MCCONNELL. Mr. President. I would like to recognize a courageous Kentuckian, David C. Parrish, Jr., for his induction into the Kentucky Aviation Hall of Fame on October 17, 2009. Sixty-five years ago this past August, Mr. Parrish undertook brave actions during his service as a fighter pilot during World War II. A native of Paris, KY, Mr. Parrish represented the very best in courage, gallantry, and self-sacrifice in defense of this Nation in the skies west of Paris, France. Like many of America's ''greatest generation,'' Mr. Parrish was willing to disregard his own safety for the safety of his fellow airmen and the protection of his country.

Valor and sacrifice are words that describe the nature of Mr. Parrish, and patience would also describe his character. Although he was recommended for the Silver Star in August 1944, lost records and bureaucratic delays meant it would take 60 years for Mr. Parrish's heroism to be officially recognized. It was my deep privilege to work with Mr. Parrish in this effort and to personally present him with his Silver Star in his hometown in 2004. I believe Mr. Parrish's story is a timely reminder of the sacrifices that so many American men and women have made in the name of freedom.

Mr. President, I would like to share with you a retelling of Mr. Parrish's actions in defense of this Nation that earned him the Silver Star and his induction into the Kentucky Aviation Hall of Fame. On August 8, 1944, 1LT David C. Parrish, Jr., was flying in the area of Mortain, France. His flight was part of an eight-plane squadron that became separated from the lead flight while on patrol. Lieutenant Parrish and three others were on their way home when the controller reported 100 enemy fighters flying above him and toward American bombers. His wingman had to fly home because he was low on fuel. Lieutenant Parrish and the remaining two fighters climbed toward the enemy planes.

Lieutenant Parrish was also low on gas and would have normally returned to base, being so outnumbered by enemy fighters. However, recognizing the danger to the friendly bombers, Lieutenant Parrish dove his three fighters into the heart of the enemy formation. The enemy fighters dispersed and Lieutenant Parrish and his fellow airmen gave chase. Lieutenant Parrish pursued one enemy fighter at 4,000 feet and destroyed it. He then turned toward another enemy fighter flying at tree top level and eventually was able to force the enemy pilot to bail out. These pursuits were extremely hazardous, and even more so because Lieutenant Parrish was perilously low on fuel.

It is my great pleasure to recognize Mr. Parrish for the sacrifices and risks he has made for this country, and I would like to congratulate him on his well-deserved induction in the Kentucky Aviation Hall of Fame. He has made Kentucky very proud.

REMEMBERING SENATOR EDWARD M. KENNEDY

Mr. BUNNING. Mr. President, today I am saddened by the death of my colleague from Massachusetts, Senator Edward Kennedy.

Born and raised in Massachusetts, Senator Kennedy dedicated his life to serving his country and the Commonwealth. He enlisted in the U.S. Army in 1951, beginning his long career of public service. Elected in 1962, Senator Kennedy is the third longest serving Senator in the history of the Senate. He served the people of Massachusetts well for 46 years, and I know his family and the people of Massachusetts are proud to call him one of their own.

Senator Kennedy had a long list of accomplishments to show for the people of Massachusetts and the Nation. He was a political icon who served with great distinction and passion for nearly a half century in the U.S. Senate, and whether I agreed with him or not, I always admired the way he fought for the issues he believed in. His leadership in the Senate will be missed and it has truly been an honor serving with him.

Mr. President, Senator Kennedy will be greatly missed. Mary and I give our heartfelt condolences to his wife, Vicki, and the entire Kennedy family.

COMMENDING SENATOR MELQUIADES RAFAEL ''MEL'' MARTINEZ

Mr. BUNNING. Mr. President, today I pay tribute to my distinguished colleague from Florida, Mel Martinez, who retired from the Senate earlier this month.

I have worked with Senator Martinez since he was elected to serve the people of Florida in 2004. He has served his country proudly in several different roles. Senator Martinez also had the distinct honor to serve as the Secretary of Housing and Urban Development in President George W. Bush's Cabinet and as the chairman of the Republican National Committee. In both roles, it was not personal ambition that drove Mel. Rather, it was his passion to make his country a better place to live for his family and for all Americans.

I have also had the privilege of serving on the Senate Banking Committee with Senator Martinez. As a member of this committee, Mel brought a greater understanding and perspective on housing issues facing the Nation than many Senators that have served on this committee. Floridians and all Americans have benefited from his vast experience in this area as well as his dedication to serve for the greater good. A person of this caliber will truly be missed in the United States.

I am honored to know him and to have worked with him. I would like to thank Senator Martinez for his contributions to the Senate and to the country we both love. I wish him and his family the best in all of their future endeavors.

DEPARTMENT OF INTERIOR APPROPRIATIONS

Mr. COBURN. Mr. President, Senator CARPER successfully offered an amendment to this act that would authorize the EPA to conduct a study on black carbon emissions to ''improve global and domestic public health'' and ''to mitigate the climate impacts of black carbon.''

A similar bill, S. 849, was also introduced by Senator CARPER and approved recently by the Senate Committee on the Environment and Public Works.

While I did not object to the purpose of the bill, I did object to the bill because the cost of the study—$2 million according to the Congressional Budget Office—was not offset.

As I wrote in a letter to Minority Leader MCCONNELL and Senator CARPER outlining my objections to this bill, ''At a time when our national debt is greater than $11.6 trillion, we cannot afford to add to this debt that will be inherited by our children and grandchildren. Even our best intentions need to be paid for with offsets from lower priorities or wasteful spending.''

I also requested the opportunity to modify this legislation if no offsets were made.

I intended to offer a second-degree amendment to offset the expected cost increase in spending as a result of the Carper amendment by capping the amount of funds EPA can spend on conference travel. According to EPA, $17.296 million was spent on conference travel in 2006—the last year for which we have records. This amendment would have capped conference travel spending at $15 million, thus assuring that the full cost of the study will be offset.

In the past couple of years, as Americans were tightening their belts and travelling less, EPA was growing its conference budget and travelling more. This is reflected in its annual costs for

conference participation and related expenses, which increased from $10.781 million in fiscal year 2000 to $17.296 million in fiscal year 2006.

Conference attendance for Federal employees in many, if not most, cases is discretionary, meaning that it is up to Federal agencies to determine to what conferences agency employees should go and how many employees should go. Some conferences provide valuable educational or agency-related information in a format unavailable in a normal office setting. Many conferences, by the sponsors' design, are held in locations chosen to attract attendees.

That being said, it is the responsibility of the U.S. Congress and the managers within Federal agencies to exercise due diligence in performing oversight over an area of Federal spending that has cost taxpayers over $2 billion on conferences from 2000–2006. This spending has increased over 95 percent, from over $200 million a year in fiscal year 2000 to almost $400 million a year in fiscal year 2006. In addition to the financial cost of these trips, oversight hearings I held as the chair of the Federal Financial Management Subcommittee highlighted the lost productivity of government employees when they are out of the office on nonessential travel.

The EPA is just one among many Federal agencies that I believe has overspent on nonessential conferences and travel. In my research I found numerous instances where EPA showed questionable judgment in this regard.

In September 2006, EPA sent 23 employees to Paris, France, for the International Society of Exposure Analysis Meeting, at a cost of $56,000. This conference featured a gala dinner cruise on the River Seine and a cast of presenters that consisted primarily of Americans.

The agency's employees attended an annual National Beaches Conference in Niagara Falls, NY. The 2006 conference was attended by at least seven EPA employees, at a cost to taxpayers of $52,500.

One EPA employee attended a December 2006 GSA Small Business Conference in Palm Springs, CA, at a cost of $4,100, with his or her travel costs alone listed at $1,800.

A Cancun, Mexico, meeting attended by two EPA employees cost $4,200, with travel costs listed at $2,900.

A March 2007 Waste-to-Energy Conference in San Juan, Puerto Rico cost taxpayers $48,000 for nine EPA employees and two taxpayer-funded nonemployees to attend.

A 2006 ''Beyond Translation Forum'' sponsored by the EPA in Texas to ''engage the Hispanic community in becoming environmental stewards'' costs $52,100 for the attendance of 20 EPA employees and 85 taxpayer-funded nonemployees.

Over 2 years, EPA also spent $2.6 million in grants and contracts and over $300,000 in travel and related expenses for brownfields conferences in Oregon and Missouri.

EPA spent $235,000 in grants and $25,000 in travel costs for the National Tank Conference in Memphis. Costs included events at BB King's and seeing the Memphis Grizzlies basketball team play.

EPA spent $355,000 in grants and contracts and $167,000 in travel costs for the Community Involvement Conference in Milwaukee.

In February of 2007, EPA spent $150,000 to sponsor the ''Measuring Program Results'' Conference, to which it sent one EPA employee and paid for the attendance of four nonemployees.

Instead of specifically capping the amount EPA could spend on conference travel, Senator CARPER has graciously modified his amendment to transfer $2 million from the EPA's Environmental Programs and Management account to fund this study of black carbon emissions. This EPA account ''provides personnel compensation, benefits, and travel and other administrative expenses for all agency programs.''

It is my hope that this transfer in funds will help EPA better manage the funds it is entrusted with by Congress and limit questionable expenditures and unnecessary conference travel and related expenses.

I am pleased that the Senate has agreed to this offset and hope that Congress can begin to prioritize funds for its priorities with real offsets.

ADDITIONAL STATEMENTS

REMEMBERING JOSEPHINE PEREZ

• Mr. BENNET. Mr. President, on August 28, 2009, Colorado and the Nation lost a champion for justice and equality, Josephine Marie Varela-Perez. Josie, as she was known by all, surmounted the daunting challenges life brought her to become an exemplary voice for minority students in Denver. Her courage and conviction created a better future not only for Denver students but for countless kids across the country.

Josie's humble beginnings never held her back from achieving her dreams. When faced with adversity, she overcame.

School year after school year, Josie would show up on the first day to be counted among her classmates and then return to working in the beet fields, never attending class past the fourth grade. But Josie—a strong believer that education was the key to success and should be available to all children no matter their race or creed—taught herself English and Spanish and earned her GED.

Josie's commitment to education and minority rights thrust her into the center of the civil rights movement as a party to the landmark desegregation case, Keyes, et al v. School District No. 1, Denver, Colorado. She also marched with Cesar Chavez and the United Farm Workers and was a voice for the less fortunate. Her strength and courage in standing up for the rights of minority students and the less fortunate is an inspiration to all.

Josie's strong spirit extended far beyond her activism. Josie worked tirelessly to support her six kids—Ricardo, Patricia, Lou, Carlos, Terry, and Sheila so that they could have the future they deserved.

I join Coloradans and Americans across the country in grieving the loss of this civil rights champion. Josie's legacy will continue to inspire Americans for generations to come.

My thoughts and prayers are with her family.•

RECOGNIZING FIFTY YEARS OF ICBMS

• Mr. CONRAD. Mr. President, I wish today as cochair of the Senate ICBM coalition along with my friend from Wyoming to recognize and pay tribute to 20th Air Force as the Air Force celebrates the 50th anniversary of the first nuclear-tipped ICBM on alert, and to honor the heritage and accomplishments of the ICBM mission and people—past and present—who acquire, develop, operate, maintain, and secure this combat capability for our Nation.

In July 1954, the Air Force established the Western Development Division in response to the growing Soviet missile threat. It developed the first-generation ICBMs—the Titan that is housed in underground silos as well as the above-ground Atlas.

In October 1959, the first alert of a nuclear warhead-equipped Atlas D occurred at Vandenberg Air Force Base, CA. Immediately thereafter, the Air Force started working on a solid-fueled, second-generation ICBM called the Minuteman. Ten Minuteman I ICBMs were already on alert at Malmstrom Air Force Base, MT, by the Cuban Missile Crisis in October 1962. Just three years later, the first-generation ICBMs were replaced with the larger and more accurate Minuteman II.

By January 1970, the Air Force had deployed the Minuteman III. Throughout the 1970s, in response to the Soviet Union's buildup of multiwarhead ICBMs, the Air Force started work on the Peacekeeper. In 1987, 50 Peacekeepers were deployed in existing Minuteman III silos at F.E. Warren Air Force Base, WY. At the height of the Cold War, the Air Force maintained an ICBM fleet of more than 1,200 missiles on alert as a counterforce to the approximately 1,400 Soviet ICBMs poised against the United States.

Currently, the Air Force maintains a fleet of 450 on-alert Minuteman III ICBMs, spanning the missile fields in Colorado, Montana, Nebraska, North Dakota, and Wyoming. In August 2009, the Air Force activated a new major command—Air Force Global Strike Command—committed solely to the nuclear deterrence mission. This December, 20th Air Force and the ICBM

mission will transfer from Air Force Space Command to Air Force Global Strike Command. The pride shared today in the heritage and rich history of the ICBM mission will always be a part of Air Force Space Command's contribution to our national security.

Mr. President, the American people are fortunate to have the dedicated Airmen of 20th Air Force operate, maintain, and secure America's only land-based strategic deterrent 24 hours a day, 7 days a week, 365 days a year. I know my colleagues will join me in congratulating the Air Force on 50 years of the highest commitment in carrying out the ICBM mission.●

ABERDEEN MONUMENT TO FIREFIGHTERS

● Mr. JOHNSON. Mr. President, I rise today to honor a special unveiling of the Aberdeen Monument to Firefighters on October 15, 2009. The handsome bronze, carefully crafted by Aberdeen sculptor Benjamin Victor, is a tribute to the firefighters who put their lives on the line and heroically serve with courage, pride and honor. Fully aware that firefighting is inherently dangerous work, these men and women work day and night to save lives, save property and protect the environment.

Benjamin Victor has crafted a spectacular sculpture to commemorate these heroes. It portrays his passion for expression and detail and his natural ability to create unique and inspiring works of art. Ben, at 26 years old, is the youngest artist ever to have a sculpture in the National Statuary Hall in the U.S. Capitol. Art critics and organizations throughout the country recognize the aesthetic and conceptual integrity of Ben's work. Early on, Aberdeen saw his talent and its citizens are very grateful that he continues to share his talents with their community.

I also want to commend the Aberdeen community for their efforts to make this unveiling possible. Using no tax dollars, the entire funding for this project came from businesses, service clubs, schools, fraternal organizations and individuals in the community who saw the significance of this monument. This contribution by the Aberdeen community and Benjamin Victor will commemorate the important role of our firefighters for generations to come.●

TRIBUTE TO FATHER ROBERTO BALDUCELLI

● Mr. KAUFMAN. Mr. President, today I recognize the extraordinary contributions of a patriarch of the Italian-American community in my home State of Delaware, Father Roberto Balducelli. On Columbus Day, Father Balducelli will be honored by the Columbus Communion Breakfast Committee with its Outstanding Achievement Award.

Father Balducelli's 96 years on this Earth, while a true gift to all he has served, reads like a novel. As a 9-year-old boy in the small town of Castelluccio, Italy, he decided that he wanted to pursue an ecclesiastical education in Rome. In 1929, at the age of 16, he joined the Oblates of St. Francis de Sales. After studying in France and Switzerland, he returned to Italy from September 1939 to March 1946.

During World War II, Father Balducelli helped save Italian Jews from persecution. The young priest recovered the bodies of civilians killed in bombing raids, was injured in one of these attacks, and sheltered refugees from Nazi persecution.

After receiving a passport to come to the United States, Father Balducelli crossed the Atlantic Ocean over the course of 29 days and arrived in New York on April 10, 1946. The young oblate arrived at St. Anthony's of Padua Church in Wilmington soon after and became the church's first Italian priest. In 1959, he became pastor of St. Anthony's.

As a first-rate mason and a licensed contractor in the State of Delaware, Father Balducelli oversaw and helped undertake the renovation of an old public school to meet young Catholic students' educational needs, and he helped establish a new school, called Padua Academy, for girls, as well.

His love of welding helped to build St. Anthony in the Hills in the 1960s, a popular summer retreat and sanctuary for children and their families near Hockessin, DE. On his watch, the parish opened a senior and day care center and expanded the regionally prominent Italian Festival in Delaware. He retired as the church's pastor in 1988.

I am privileged to have known Father Balducelli for many years. I look forward to breaking bread with him at the Columbus Communion Breakfast in Wilmington's Little Italy on the day of his special recognition.

I hope my colleagues will join me in celebrating Father Balducelli's significant accomplishments, which he achieved over the course of a lifetime dedicated to our community. Wilmington and our Italian-American community could not have woven such a fabric of family and strength if it were not for the commitment and foresight of Father Roberto Balducelli.●

NATIONAL HUNTING AND FISHING DAY

● Ms. STABENOW. Mr. President, I am here today in recognition of National Hunting and Fishing Day, which was recognized on September 26. Hunters and anglers contribute significantly to our Nation's economy. More than 1 million hunters and anglers add over $3 billion each year into Michigan's economy alone.

From the very beginning, hunting and fishing have been at the center of Michigan's history and culture. Our two great peninsulas, surrounded by the magnificent Great Lakes, are home to over 8 million acres of public hunting land, tens of thousands of rivers and streams, and some of the best hunting and fishing in the United States. Whether meandering along Hemingway's Fox or Two Hearted Rivers for brook trout and ruffed grouse, or making the annual trip to deer camp with friends and family, Michigan's proud heritage comes with a sense of profound responsibility to protect that legacy for future generations.

We have made some important progress. I have been pleased to spearhead a number of efforts including Federal funding to stop the invasive cormorant from destroying our fisheries. This project has already shown conclusive results in bringing back once-decimated fishing areas. Through my work on the Senate Agriculture Committee, we have invested over $4 billion in new conservation efforts that will protect wildlife habitats and increase access for hunters and anglers across the country. Most recently, the Senate passed $400 million in funding for the Great Lakes Restoration Initiative to clean up the Great Lakes.

While we have made progress, there is more work to be done. I will continue to work for passage of the National Fish Habitat Conservation Act and the Clean Water Restoration Act, which will help preserve Michigan's 36,000 miles of rivers and streams, including over 1,000 miles of blue-ribbon trout streams. I will also continue to work to ensure access to public lands and waterways.

Working together, we can preserve our natural resources so others can enjoy our rich hunting and fishing heritage for generations to come.●

TRIBUTE TO DR. CAROLYN PORCO

● Mr. UDALL of Colorado. Mr. President, today I praise Dr. Carolyn Porco, a professor at the University of Colorado, senior researcher at the Space Science Institute in Boulder, CO, and leader of the imaging team for the Cassini mission. In this last role, she has a front row seat on some of the most exciting scientific discoveries of today coming from the Cassini spacecraft, which for 5 years has been orbiting and studying Saturn and its Moons. I have submitted for the RECORD an article about Dr. Porco from the September 21, 2009, edition of the New York Times.

In Colorado, we are extremely proud of our science and technology enterprise. We have 16 Federal laboratories, top-flight research universities and a vibrant private sector pushing the limits on everything from biomedical research to space exploration. But even in this crowded field, Dr. Porco stands out as an exemplary Colorado scientist. She has repeatedly been recognized as one of the top scientific leaders to watch this century both for her scientific accomplishments and her leadership within the scientific community. As the Times article shows, she

has come a long way from her humble Bronx upbringing.

Thinking about Dr. Porco, I am reminded that great scientists are not born. They are made. They are made through the hard work and determination of the young boy who rejects the stigma that somehow being smart is not cool and the young girl who refuses to take a back seat to any boy. They are made through the guidance and support of countless teachers and mentors who receive far too little credit for the service they give to this country. And perhaps most importantly for this body, they are made through the investments we make in research, development and education. If we want the Carolyn Porcos of the future to be here in the United States—and believe me, we do—we must invest now in our research agencies, and we must have well-paid, high-quality teachers in the classroom.

Dr. Porco is a stellar example of what we can accomplish as individuals and as a nation with focus and a little bit of tenacity. I congratulate her on her accomplishments and well-deserved recognition. I, for one, will be following her progress and expecting many more great things from her in the future.

I ask that the New York Times article to which I referred be printed in the RECORD.

The information follows.

AN ODYSSEY FROM THE BRONX TO SATURN'S RINGS

(By Dennis Overbye)

It is twilight time on Saturn.

Shadows lengthened to stretch thousands of miles across the planet's famous rings this summer as they slowly tilted edge-on to the Sun, which they do every 15 years, casting into sharp relief every bump and wiggle and warp in the buttery and wafer-thin bands that are the solar system's most popular scenic attraction.

From her metaphorical perch on the bridge of the Cassini spacecraft, which has been orbiting Saturn for five years, Carolyn Porco, who heads the camera team, is ecstatic about the view. ''It's another one of those things that make you pinch yourself and say, 'Boy am I lucky to be around now,' '' Dr. Porco said. ''For the first time in 400 years, we're seeing Saturn's rings in three dimensions.''

On Monday, Dr. Porco and the Cassini team released a grand view of the rings in all their shadowed glory, including clumps, spikes, undulations and waves two and a half miles high on the edge of one ring.

''We always knew it would be good; instead, it's been extraordinary,'' Dr. Porco said of the cascade of results that have placed her in a spotlight to which she has become increasingly accustomed. ''I feel I'm on a great human adventure,'' she said.

The work may be carried out by robots, Dr. Porco said, ''but we are all explorers.''

''It's thrilling,'' she added, ''and I want everyone to know how thrilling it is.''

Dr. Porco, 56, a senior researcher at the Space Science Institute in Boulder, Colo., may be the leader of the camera team on the $3.4 billion Cassini mission, an adjunct professor at the University of Colorado and one of Wired magazine's 15 people who should be advising the president. But she is also a proud child of the 1964os who has never let go of the exuberance of that era when President John F. Kennedy ''said that the sky isn't even the limit,'' as she puts it, and ''things were unleashed.''

Her entries on the Cassini imaging Web site echo the spirit of the character Capt. James T. Kirk on ''Star Trek'':

CAPTAIN'S LOG—MARCH 23, 2009

We are almost there. Saturn and we, its companions, have journeyed together now for nearly five years, in a circumnavigation of the outer solar system.

Stanley Kubrick's film ''2001: A Space Odyssey'' is still her favorite movie, and she still loves the Beatles. On a visit to England in 2001, she and her imaging colleagues recreated the album cover picture of the Beatles crossing Abbey Road, with Dr. Porco leading, dressed in white like John Lennon.

Dr. Porco was born and raised in a Bronx family with four brothers she partly credits for her subsequent success in astronomy. ''I'm used to fighting and arguing with males,'' she said.

Her father, an Italian immigrant, drove a bread truck, and her mother kept house. Dr. Porco attended Cardinal Spellman High School, the same school that Justice Sonia Sotomayor of the Supreme Court attended.

She was a studious child and a spiritual seeker—''13 going on 80''—who lived a lot in her head. Later, as a student at the State University of New York at Stony Brook, she said she spent two years as a chanting Buddhist and even went on a two-week pilgrimage to Japan, where she was the majorette in a Buddhist marching band, wearing hot pants. ''Now, THOSE were the days,'' she wrote in an e-mail message.

By then, Dr. Porco was pursuing the future she had glimpsed at age 13 when she saw Saturn through a neighbor's rooftop telescope. As a graduate student at the California Institute of Technolgy, she floundered at first but then got a job helping to analyze data from the two Voyager spacecrafts, which toured the outer planets from Jupiter to Neptune from 1978 to 1989.

It was there, said Peter Goldreich, her thesis advisor, that she demonstrated a knack for picking out important things. Among them was a discovery that mysterious dark spokes in Saturn's ring system were connected to the planet's magnetic field. She did her thesis on aspects of the rings and how they were shaped by the gravity of tiny moonlets.

Dr. Porco also did a lot of dancing, and played a guitar and sang in the Titan Equatorial Band, a pickup group of scientists and science writers named after a feature on Saturn's largest moon, and later for a group in Tucson called the Estrogens. ''Three women and one very brave guy,'' she said.

By the time Voyager passed Neptune in 1989, Dr. Porco was a research associate at the University of Arizona and leading a small team trying to make sense of the thin rings around Neptune.

''She was one of the young rock stars of Voyager,'' said David Grinspoon, of the Southwest Research Institute in Boulder, who was a graduate student at Arizona at the time.

But it had not been an easy climb in the overwhelmingly male and competitive environment of space science. Dr. Porco once described scientists as ''schoolyard toughs.'' She recalled pumping herself up to be an ''alpha male'' before meetings of her ring team.

Even as a graduate student, Dr. Goldreich recalled, Dr. Porco ''was making a deliberate effort to become tough, and she succeeded.''

Dr. Porco found an ally and friend in Carl Sagan, the Cornell astronomer, author and a charter member of the Voyager team, who defended her once when her Voyager colleagues teased her about not being married.

Dr. Porco was subsequently hired as a consultant for the movie ''Contact,'' based on Sagan's novel about a feisty astronomer, Ellie Arroway, who discovers a signal from extraterrestrials.

Although plans fell through for Dr. Porco to meet Jodie Foster, the actress who played Arroway, she did attend a workshop on the script, where she took strong exception to an idea that the character would sleep with her adviser. ''She's a let-it-ripper, isn't she?'' recalled the movie's producer, Lynda Obst. ''She let it rip.''

Voyager, Dr. Porco said, was the time of her life. ''It had all the elements of Homeric legend,'' she said. ''It was a long 12-year odyssey, punctuated by brief episodes of great discovery and conquest. And then it was back in the boat, oars in the water, until years later we reached our next port of call. It was a defining experience for many of us, and certainly for me.''

The chance to channel Dr. Porco's inner Captain Kirk continued with the $3.4 billion Cassini mission, which was launched on a roundabout course toward Saturn in 1997 and arrived in 2004. Being on the imaging team is like standing on the bridge of the spaceship, she said. ''We have the windows,'' she said. ''That's what we're responsible for.''

Dr. Porco was chosen over more senior astronomers to head the Cassini camera team in 1990, one of 12 team leaders for the spacecraft. The job swallowed her life, she said, and required her hard-won toughness. ''Our experiment has been spectacularly successful,'' she said, ''and that would never have happened if I let people roll over me.''

But Dr. Porco said it had all been worthwhile. ''Between my participation in Voyager and my role in Cassini,'' she said, ''when comes the time, I will die a happy and gratified woman.''

One of the most thrilling Cassini moments was in 2004 when the Huygens probe detached from Cassini and landed on Saturn's largest moon, Titan, a strange, frigid world where rocks are made of ice, and rivers and oceans are formed of what Dr. Porco has described as ''paint thinner.''

Last month, astronomers announced that they had detected methane storms on Titan, a cloudy moon that has an atmosphere denser than that of Earth.

They also discovered plumes erupting from the south pole of another Saturn moon, Enceladus, suggesting the presence of underground water and prompting talk about a future mission to cruise through the plumes. ''Should we ever discover that life has arisen twice,'' Dr. Porco said, ''that would be a game-changer.''

The Titan landing, Dr. Porco said in a talk in 2007, should have been celebrated with parades in every major city.

That talk led to another movie adventure. J. J. Abrams, the producer of the television series ''Lost,'' was listening and asked Dr. Porco to consult on his ''Star Trek'' movie. On a visit to the set, she suggested that a scene in which the Starship Enterprise materialized inside clouds be set on Titan. The scene made it onto the cover of Cinefex, a magazine about special effects in films.

In an interview, Mr. Abrams said: ''She helped us feel connected to what Gene Roddenberry had been trying to do. This is our future,'' referring the creator of ''Star Trek.''

Cassini endures, and Dr. Porco is a member of the team for the New Horizons spacecraft, which is scheduled to arrive at Pluto in 2015. But she said she hoped to spend more of her time popularizing science and hopes to write a book about Cassini.

''To my mind,'' Dr. Porco said, ''most people go through life recoiling from its best

parts. They miss the enrichment that just a basic knowledge of the physical world can bring to the most ordinary experiences. It's like there's a pulsating, hidden world, governed by ancient laws and principles, underlying everything around us—from the movements of electrical charges to the motions of the planets—and most people are completely unaware of it.

''To me, that's a shame.''●

MESSAGES FROM THE PRESIDENT

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

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 and two withdrawals which were referred to the appropriate committees.

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

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 2:15 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 3607. An act to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, to amend title 49, United States Code, to extend authorizations for the airport improvement program, and for other purposes.

At 4:23 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House agreed to the amendment of the Senate to the bill (H.R. 3614) to provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958, and for other purposes.

ENROLLED BILL SIGNED

At 6:11 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 3614. An act to provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

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

EC–3153. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Munitions and Explosives of Concern (MEC); Seal Island, Maine'' ((RIN1625–AA00) (Docket No. USG–2009–0595)) received in the Office of the President of the Senate on September 21, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3154. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Paddle for Clean Water; San Diego; California'' ((RIN1625–AA00) (Docket No. USG–2009–0383)) received in the Office of the President of the Senate on September 21, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3155. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; F/V Patriot, Massachusetts Bay, Massachusetts'' ((RIN1625–AA00) (Docket No. USG–2009–0707)) received in the Office of the President of the Senate on September 21, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3156. A communication from the Attorney, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Festivus, Lower Colorado River, Bullhead City, Arizona'' ((RIN1625–AA00) (Docket No. USG–2009–0454)) received in the Office of the President of the Senate on September 21, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3157. A communication from the Attorney, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Hornblower Cruises Fleet Week Fireworks Display, San Francisco Bay, California'' ((RIN1625–AA00) (Docket No. USG–2009–0631)) received in the Office of the President of the Senate on September 21, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3158. A communication from the Attorney, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Neptune Deep Water Port, Atlantic Ocean, Boston, Massachusetts'' ((RIN1625–AA00) (Docket No. USG–2009–0644)) received in the Office of the President of the Senate on September 21, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3159. A communication from the Attorney, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Missouri River, Mile 366.3 to 369.8'' ((RIN1625–AA00) (Docket No. USG–2009–0594)) received in the Office of the President of the Senate on September 21, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3160. A communication from the Attorney, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Upper Mississippi River, Mile 427.2 to 427.6, Keithsburg, Illinois'' ((RIN1625–AA00) (Docket No. USG–2009–0646)) received in the Office of the President of the Senate on September 21, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3161. A communication from the Attorney, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Sea World Labor Day Fireworks, Mission Bay, California'' ((RIN1625–AA00) (Docket No. USG–2009–0269)) received in the Office of the President of the Senate on September 21, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3162. A communication from the Attorney, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; BWRC '300' Enduro, Lake Moolvalya, Parker, Arizona'' ((RIN1625–AA00) (Docket No. USG–2008–1180)) received in the Office of the President of the Senate on September 21, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3163. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Special Local Regulation for Marine Events; Choptank River, Cambridge, Maryland'' ((RIN1625–AA08) (Docket No. USG–2009–0749)) received in the Office of the President of the Senate on September 21, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3164. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Special Local Regulations for Marine Events; Patapsco River, Northwest Harbor, Baltimore, Maryland'' ((RIN1625–AA08) (Docket No. USG–2009–0251)) received in the Office of the President of the Senate on September 21, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3165. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Operation Regulation; Sabine River, Echo, Texas'' ((RIN1625–AA09) (Docket No. USG–2009–0101)) received in the Office of the President of the Senate on September 21, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3166. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Definition of Marine Debris for Purposes of the Marine Debris Research, Prevention, and Reduction Act'' ((RIN0648–AV68; RIN1625–AB24) (Docket No. USG–2007–0164)) received in the Office of the President of the Senate on September 21, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3167. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Anchorage Regulations; Port of New York and Vicinity'' ((RIN1625–AA01) (Docket No. USG–2008–0047)) received in the Office of the President of the Senate on September 21, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3168. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Shipping; Transportation; Technical, Organizational, and Conforming Amendments'' ((RIN1625–ZA24) (Docket No. USG–2009–0702)) received in the Office of the President of the Senate on September 21, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3169. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; McCauley Propeller Systems Propeller Models B5JFR36C1101/114GCA–0, C5JFR36C1102/L114GCA–0, B5JFR36C1103/114HCA–0, and C5JFR36C1104/L114HCA–0'' ((RIN2120–AA64) (9–17/9–22/25173/NM–24)) received in the Office of the President of the Senate on September 24, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3170. A communication from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting, pursuant to

law, the report of a rule entitled ''Television Broadcasting Services; Fort Worth, Texas'' (MB Docket No. 09–132) received in the Office of the President of the Senate on September 24, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3171. A communication from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Television Broadcasting Services; Chicago, Illinois'' (MB Docket No. 09–146) received in the Office of the President of the Senate on September 24, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3172. A communication from the Chief of the Planning and Regulatory Affairs Branch, Supplemental Foods Programs Division, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''WIC Farmers' Market Nutrition Program (FMNP): Nondiscretionary Provisions of Public Law 108–265, the Child Nutrition and WIC Reauthorization Act of 2004'' (RIN0584–AD74) received in the Office of the President of the Senate on September 24, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3173. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Tuberculosis in Cattle and Bison; State and Zone Designations; New Mexico'' (Docket No. APHIS–2008–0124) received in the Office of the President of the Senate on September 23, 2009; to the Committee on Agriculture, Nutrition and Forestry.

EC–3174. A communication from the Acting General Counsel of the Department of Defense, transmitting legislative proposals relative to revisions to policy on development and procurement of unmanned systems as received during adjournment of the Senate in the Office of the President of the Senate on August 16, 2009; to the Committee on Armed Services.

EC–3175. A communication from the General Counsel of the Department of Defense, transmitting legislative proposals relative to special purpose entities for utilities systems in support of the realignment of military installations and relocation of military personnel in Guam received in the Office of the President of the Senate on September 16, 2009; to the Committee on Armed Services.

EC–3176. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Suspension of Community Eligibility'' ((44 CFR Part 64) (Docket ID FEMA–2008–0020; Internal Agency Docket No. FEMA–8091)) received in the Office of the President of the Senate on September 24, 2009; to the Committee on Banking, Housing, and Urban Affairs.

EC–3177. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Operating Fees'' (RIN3133–AD60) received in the Office of the President of the Senate on September 24, 2009; to the Committee on Banking, Housing, and Urban Affairs.

EC–3178. A communication from the Chief of the Endangered Species Listing Branch, Fish and Wildlife Services, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Taxonomic Change of Sclerocactus glaucus (Uinta Basin Hookless Cactus), a Threatened Species, to Three Separate Species, Sclerocactus brevispinus (Pariette Cactus), Sclerocactus glaucus (Colorado Hookless Cactus), and Sclerocactus wetlandicus (Uinta Basin Hookless Cactus)'' (RIN1018–AV51) received in the Office of the President of the Senate on September 24, 2009; to the Committee on Environment and Public Works.

EC–3179. A communication from the Wildlife Biologist, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Migratory Bird Hunting: Late Seasons and Bag and Possession Limits for Certain Migratory Game Birds'' ((RIN1018–AV31) (50 CFR Part 20)) received in the Office of the President of the Senate on September 24, 2009; to the Committee on Environment and Public Works.

EC–3180. A communication from the Wildlife Biologist, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Migratory Bird Hunting: Migratory Bird Hunting Regulations on Certain Federal Indian Reservations and Ceded Lands for the 2009–10 Early Season'' ((RIN1018–AW31) (50 CFR Part 20)) received in the Office of the President of the Senate on September 24, 2009; to the Committee on Environment and Public Works.

EC–3181. A communication from the Wildlife Biologist, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Migratory Bird Hunting: Early Seasons and Bag and Possession Limits for Certain Migratory Game Birds in the Contiguous United States, Alaska, Hawaii, Puerto Rico, and the Virgin Islands'' ((RIN1018–AW31) (50 CFR Part 20)) received in the Office of the President of the Senate on September 24, 2009; to the Committee on Environment and Public Works.

EC–3182. A communication from the Wildlife Biologist, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Migratory Bird Hunting: Final Frameworks for Early-Season Migratory Bird Hunting Regulations'' ((RIN1018–AW31) (50 CFR Part 20)) received in the Office of the President of the Senate on September 24, 2009; to the Committee on Environment and Public Works.

EC–3183. A communication from the Wildlife Biologist, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Migratory Bird Hunting: Migratory Bird Hunting Regulations on Certain Federal Indian Reservations and Ceded Lands for the 2009–10 Late Season'' ((RIN1018–AW31) (50 CFR Part 20)) received in the Office of the President of the Senate on September 24, 2009; to the Committee on Environment and Public Works.

EC–3184. A communication from the Wildlife Biologist, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Migratory Bird Hunting: Final Frameworks for Late-Season Migratory Bird Hunting Regulations'' ((RIN1018–AW31) (50 CFR Part 20)) received in the Office of the President of the Senate on September 24, 2009; to the Committee on Environment and Public Works.

EC–3185. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Indiana; Interim Final Determination that Lake and Porter Counties are Exempt from NOx RACT Requirements for Purposes of Staying Sanctions'' (FRL No. 8961–9) received in the Office of the President of the Senate on September 24, 2009; to the Committee on Environment and Public Works.

EC–3186. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Mohegan Tribe of Indians of Connecticut'' (FRL No. 8949–8) received in the Office of the President of the Senate on September 24, 2009; to the Committee on Environment and Public Works.

EC–3187. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Pennsylvania; Determination of Clean Data for the 1997 Fine Particulate Matter Standard'' (FRL No. 8962–4) received in the Office of the President of the Senate on September 24, 2009; to the Committee on Environment and Public Works.

EC–3188. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Ohio; Clean Air Interstate Rule'' (FRL No. 8950–9) received in the Office of the President of the Senate on September 24, 2009; to the Committee on Environment and Public Works.

EC–3189. A communication from the Deputy Assistant Secretary, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Eagle Permits Take; Necessary to Protect Interests in Particular Localities'' (RIN1018–AV81) received in the Office of the President of the Senate on September 24, 2009; to the Committee on Environment and Public Works.

EC–3190. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Tier II Issue—Industry Directive on Planning and Examination of Contractual Allowances in the Healthcare Industry No. 2'' ((LMSB–4–0909–036) (Uniform List No. 451.19–02)) received in the Office of the President of the Senate on September 24, 2009; to the Committee on Finance.

EC–3191. A communication from the Chief of the Trade and Commercial Regulations Branch, Customs and Border Protection, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Entry of Certain Cement Products From Mexico Requiring a Commerce Department Import License'' (RIN1505–AC14) received in the Office of the President of the Senate on September 24, 2009; to the Committee on Finance.

EC–3192. A communication from the Chief of the Trade and Commercial Regulations Branch, Customs and Border Protection, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Increase in Certain Personal Duty Exemptions Extended to Returning U.S. Residents'' (RIN1505–AC16) received in the Office of the President of the Senate on September 24, 2009; to the Committee on Finance.

EC–3193. A communication from the Commissioner of Social Security, transmitting the report of proposed legislation relative to naming a building at Social Security headquarter after the late Robert M. Ball; to the Committee on Finance.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROCKEFELLER, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 1451. A bill to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide for modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes (Rept. No. 111–82).

By Mr. INOUYE, from the Committee on Appropriations:

Special Report entitled ''Further Revised Allocation to Subcommittees of Budget Totals from the Concurrent Resolution, FY 2010'' (Rept. No. 111–83).

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 Ms. COLLINS:

S. 1722. A bill to extend the temporary suspension of duty on certain rayon staple fibers; to the Committee on Finance.

By Mr. CORKER (for himself, Mr. WARNER, Mr. BENNET, and Ms. KLOBUCHAR):

S. 1723. A bill to authorize the Secretary of the Treasury to delegate management authority over troubled assets purchased under the Troubled Asset Relief Program, to require the establishment of a trust to manage assets of certain designated TARP recipients, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SCHUMER (for himself, Mr. KYL, Mr. WHITEHOUSE, and Mr. REED):

S. 1724. A bill to establish a competitive grant program in the Department of Justice to be administered by the Bureau of Justice Assistance which shall assist local criminal prosecutors' offices in investigating and prosecuting crimes of real estate fraud.

By Mr. DODD (for himself, Mr. FEINGOLD, Mr. LEAHY, and Mr. MERKLEY):

S. 1725. A bill to amend the Foreign Intelligence Surveillance Act of 1978 to remove retroactive immunity protection for electronic communications service providers that participated in the Terrorist Surveillance Program and for other purposes; to the Committee on the Judiciary.

By Mr. KYL (for himself and Mr. CORNYN):

S. 1726. A bill to reauthorize the expiring intelligence tools of the USA PATRIOT Improvement and Reauthorization Act of 2005 and defend against terrorism through improved classified procedures and criminal law reforms, and for other purposes; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. REID:

S. Res. 290. A resolution to constitute the majority party's membership on certain committees for the One Hundred Eleventh Congress, or until their successors are chosen; considered and agreed to.

By Ms. LANDRIEU (for herself, Mrs. LINCOLN, Mr. LEVIN, Mr. BURR, Mr. KERRY, Mr. DEMINT, Mr. ROBERTS, Mr. THUNE, Mr. ALEXANDER, Mr. MENENDEZ, Mr. BROWNBACK, Mr. BAUCUS, Mr. REID, Mr. LAUTENBERG, Mr. LIEBERMAN, Mr. VITTER, Mr. CARDIN, Mr. DURBIN, Mr. JOHNSON, Ms. KLOBUCHAR, Mr. INHOFE, Mr. BEGICH, Mrs. HUTCHISON, Mrs. GILLIBRAND, Mr. CONRAD, Mr. FRANKEN, Mr. JOHANNS, Mr. HATCH, Ms. COLLINS, Mr. NELSON of Nebraska, Mr. BROWN, Mr. GREGG, Mr. SPECTER, Mr. CASEY, Mr. MERKLEY, Mr. DODD, and Mr. RISCH):

S. Res. 291. A resolution expressing support for the goals of National Adoption Day and National Adoption Month by promoting national awareness of adoption and the children awaiting families, celebrating children and families involved in adoption, and encouraging Americans to secure safety, permanency, and well-being for all children; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. Res. 292. A resolution congratulating the Park View All-Star Little League team for winning the 2009 Little League World Series championship; to the Committee on the Judiciary.

By Mr. REID (for himself, Mr. MCCONNELL, Mr. INHOFE, Mr. COBURN, Mr. AKAKA, Mr. ALEXANDER, Mr. BARRASSO, Mr. BAUCUS, Mr. BAYH, Mr. BEGICH, Mr. BENNET, Mr. BENNETT, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BROWN, Mr. BROWNBACK, Mr. BUNNING, Mr. BURR, Mr. BURRIS, Mr. BYRD, Ms. CANTWELL, Mr. CARDIN, Mr. CARPER, Mr. CASEY, Mr. CHAMBLISS, Mr. COCHRAN, Ms. COLLINS, Mr. CONRAD, Mr. CORKER, Mr. CORNYN, Mr. CRAPO, Mr. DEMINT, Mr. DODD, Mr. DORGAN, Mr. DURBIN, Mr. ENSIGN, Mr. ENZI, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. FRANKEN, Mrs. GILLIBRAND, Mr. GRAHAM, Mr. GRASSLEY, Mr. GREGG, Mrs. HAGAN, Mr. HARKIN, Mr. HATCH, Mrs. HUTCHISON, Mr. INOUYE, Mr. ISAKSON, Mr. JOHANNS, Mr. JOHNSON, Mr. KAUFMAN, Mr. KERRY, Mr. KIRK, Ms. KLOBUCHAR, Mr. KOHL, Mr. KYL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEMIEUX, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. LUGAR, Mr. MCCAIN, Mrs. MCCASKILL, Mr. MENENDEZ, Mr. MERKLEY, Ms. MIKULSKI, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Nebraska, Mr. NELSON of Florida, Mr. PRYOR, Mr. REED, Mr. RISCH, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. SANDERS, Mr. SCHUMER, Mr. SESSIONS, Mrs. SHAHEEN, Mr. SHELBY, Ms. SNOWE, Mr. SPECTER, Ms. STABENOW, Mr. TESTER, Mr. THUNE, Mr. UDALL of Colorado, Mr. UDALL of New Mexico, Mr. VITTER, Mr. VOINOVICH, Mr. WARNER, Mr. WEBB, Mr. WHITEHOUSE, Mr. WICKER, and Mr. WYDEN):

S. Res. 293. A resolution relative to the death of Henry Louis Bellmon, former United States Senator for the State of Oklahoma; considered and agreed to.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. LIEBERMAN for the Committee on Homeland Security and Governmental Affairs.

*Richard Serino, of Massachusetts, to be Deputy Administrator, Federal Emergency Management Agency, Department of Homeland Security.

*Daniel I. Werfel, of Virginia, to be Controller, Office of Federal Financial Management, Office of Management and Budget.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

ADDITIONAL COSPONSORS

S. 254

At the request of Mrs. LINCOLN, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 254, a bill to amend title XVIII of the Social Security Act to provide for the coverage of home infusion therapy under the Medicare Program.

S. 451

At the request of Ms. COLLINS, the names of the Senator from Indiana (Mr. LUGAR), the Senator from Rhode Island (Mr. REED), the Senator from Texas (Mr. CORNYN) and the Senator from Utah (Mr. HATCH) were added as cosponsors of S. 451, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centennial of the establishment of the Girl Scouts of the United States of America.

S. 461

At the request of Mrs. LINCOLN, the name of the Senator from Illinois (Mr. BURRIS) was added as a cosponsor of S. 461, a bill to amend the Internal Revenue Code of 1986 to extend and modify the railroad track maintenance credit.

S. 607

At the request of Mr. UDALL of Colorado, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 607, a bill to amend the National Forest Ski Area Permit Act of 1986 to clarify the authority of the Secretary of Agriculture regarding additional recreational uses of National Forest System land that are subject to ski area permits, and for other purposes.

S. 662

At the request of Mr. CONRAD, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 662, a bill to amend title XVIII of the Social Security Act to provide for reimbursement of certified midwife services and to provide for more equitable reimbursement rates for certified nurse—midwife services.

S. 669

At the request of Mr. BURR, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 669, a bill to amend title 38, United States Code, to clarify the conditions under which certain persons may be treated as adjudicated mentally incompetent for certain purposes.

S. 688

At the request of Ms. SNOWE, the names of the Senator from Vermont

(Mr. SANDERS) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 688, a bill to require that health plans provide coverage for a minimum hospital stay for mastectomies, lumpectomies, and lymph node dissection for the treatment of breast cancer and coverage for secondary consultations.

S. 727

At the request of Ms. LANDRIEU, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 727, a bill to amend title 18, United States Code, to prohibit certain conduct relating to the use of horses for human consumption.

S. 823

At the request of Ms. SNOWE, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 823, a bill to amend the Internal Revenue Code of 1986 to allow a 5-year carryback of operating losses, and for other purposes.

S. 831

At the request of Mr. KERRY, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 831, a bill to amend title 10, United States Code, to include service after September 11, 2001, as service qualifying for the determination of a reduced eligibility age for receipt of nonregular service retired pay.

S. 883

At the request of Mr. KERRY, the names of the Senator from Colorado (Mr. UDALL) and the Senator from Idaho (Mr. RISCH) were added as cosponsors of S. 883, a bill to require the Secretary of the Treasury to mint coins in recognition and celebration of the establishment of the Medal of Honor in 1861, America's highest award for valor in action against an enemy force which can be bestowed upon an individual serving in the Armed Services of the United States, to honor the American military men and women who have been recipients of the Medal of Honor, and to promote awareness of what the Medal of Honor represents and how ordinary Americans, through courage, sacrifice, selfless service and patriotism, can challenge fate and change the course of history.

S. 1008

At the request of Mrs. SHAHEEN, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 1008, a bill to amend title 10, United States Code, to limit requirements of separation pay, special separation benefits, and voluntary separation incentive from members of the Armed Forces subsequently receiving retired or retainer pay.

S. 1066

At the request of Mr. SCHUMER, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 1066, a bill to amend title XVIII of the Social Security Act to preserve access to ambulance services under the Medicare program.

S. 1085

At the request of Mr. MENENDEZ, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1085, a bill to amend the Immigration and Nationality Act to promote family unity, and for other purposes.

S. 1147

At the request of Mr. KOHL, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 1147, a bill to prevent tobacco smuggling, to ensure the collection of all tobacco taxes, and for other purposes.

S. 1221

At the request of Mr. SPECTER, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 1221, a bill to amend title XVIII of the Social Security Act to ensure more appropriate payment amounts for drugs and biologicals under part B of the Medicare Program by excluding customary prompt pay discounts extended to wholesalers from the manufacturer's average sales price.

S. 1222

At the request of Mrs. LINCOLN, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 1222, 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. 1239

At the request of Mr. BINGAMAN, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 1239, a bill to amend section 340B of the Public Health Service Act to revise and expand the drug discount program under that section to improve the provision of discounts on drug purchases for certain safety net providers.

S. 1301

At the request of Mr. MENENDEZ, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 1301, a bill to direct the Attorney General to make an annual grant to the A Child Is Missing Alert and Recovery Center to assist law enforcement agencies in the rapid recovery of missing children, and for other purposes.

S. 1329

At the request of Mr. KOHL, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1329, a bill to authorize the Attorney General to award grants to State courts to develop and implement State courts interpreter programs.

S. 1340

At the request of Mr. LEAHY, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 1340, a bill to establish a minimum funding level for programs under the Victims of Crime Act of 1984 for fiscal years 2010 to 2014 that ensures a reasonable growth in victim programs without jeopardizing the long-term sustainability of the Crime Victims Fund.

S. 1409

At the request of Mr. KERRY, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1409, a bill to expedite the adjudication of employer petitions for aliens with extraordinary artistic ability.

S. 1524

At the request of Mr. KERRY, the name of the Senator from Missouri (Mrs. MCCASKILL) was added as a cosponsor of S. 1524, a bill to strengthen the capacity, transparency, and accountability of United States foreign assistance programs to effectively adapt and respond to new challenges of the 21st century, and for other purposes.

S. 1542

At the request of Mr. SCHUMER, the names of the Senator from Pennsylvania (Mr. SPECTER) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. 1542, a bill to impose tariff-rate quotas on certain casein and milk protein concentrates.

S. 1547

At the request of Mr. REED, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1547, a bill to amend title 38, United States Code, and the United States Housing Act of 1937 to enhance and expand the assistance provided by the Department of Veterans Affairs and the Department of Housing and Urban Development to homeless veterans and veterans at risk of homelessness, and for other purposes.

S. 1550

At the request of Mr. MENENDEZ, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1550, a bill to ensure that individuals detained by the Department of Homeland Security are treated humanely, provided adequate medical care, and granted certain specified rights.

S. 1569

At the request of Ms. STABENOW, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 1569, a bill to expand our Nation's Advanced Practice Registered Nurse workforce.

S. 1583

At the request of Mr. ROCKEFELLER, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1583, a bill to amend the Internal Revenue Code of 1986 to extend the new markets tax credit through 2014, and for other purposes.

S. 1594

At the request of Mr. LIEBERMAN, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1594, a bill to provide safeguards against faulty asylum procedures, to improve conditions of detention for detainees, and for other purposes.

S. 1612

At the request of Mrs. LINCOLN, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 1612, a bill to amend the Internal Revenue Code of 1986 to improve the operation of employee stock

ownership plans, and for other purposes.

S. 1660

At the request of Ms. KLOBUCHAR, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1660, a bill to amend the Toxic Substances Control Act to reduce the emissions of formaldehyde from composite wood products, and for other purposes.

S. 1668

At the request of Mr. BENNET, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1668, a bill to amend title 38, United States Code, to provide for the inclusion of certain active duty service in the reserve components as qualifying service for purposes of Post-9/11 Educational Assistance Program, and for other purposes.

S. 1672

At the request of Mr. REED, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1672, a bill to reauthorize the National Oilheat Research Alliance Act of 2000.

S. 1683

At the request of Mr. BENNET, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 1683, a bill to apply recaptured taxpayer investments toward reducing the national debt.

S. 1694

At the request of Mr. ROCKEFELLER, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 1694, a bill to allow the funding for the interoperable emergency communications grant program established under the Digital Television Transition and Public Safety Act of 2005 to remain available until expended through fiscal year 2012, and for other purposes.

S. 1709

At the request of Ms. STABENOW, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1709, a bill to amend the National Agricultural Research, Extension, and Teaching Policy Act of 1977 to establish a grant program to promote efforts to develop, implement, and sustain veterinary services, and for other purposes.

S. 1711

At the request of Mr. REID, the name of the Senator from Colorado (Mr. UDALL) was added as a cosponsor of S. 1711, a bill to amend the Internal Revenue Code of 1986 to provide tax incentives for making homes more water-efficient, for building new water-efficient homes, for public water conservation, and for other purposes.

S.J. RES. 14

At the request of Mr. BROWNBACK, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S.J. Res. 14, a joint resolution to acknowledge a long history of official depredations and ill-conceived policies by the Federal Government regarding Indian tribes and offer an apology to all Native Peoples on behalf of the United States.

S.J. RES. 16

At the request of Mr. DEMINT, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S.J. Res. 16, a joint resolution proposing an amendment to the Constitution of the United States relative to parental rights.

S. RES. 285

At the request of Mr. BENNETT, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. Res. 285, a resolution supporting the goals and ideals of national cybersecurity awareness month and raising awareness and enhancing the state of cybersecurity in the United States.

AMENDMENT NO. 2555

At the request of Mr. JOHANNS, the names of the Senator from Iowa (Mr. GRASSLEY), the Senator from Pennsylvania (Mr. CASEY) and the Senator from Iowa (Mr. HARKIN) were added as cosponsors of amendment No. 2555 intended to be proposed to H.R. 3326, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2010, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CORKER (for himself, Mr. WARNER, Mr. BENNET, and Ms. KLOBUCHAR):

S. 1723. A bill to authorize the Secretary of the Treasury to delegate management authority over troubled assets purchased under the Troubled Asset Relief Program, to require the establishment of a trust to manage assets of certain designated TARP recipients, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. CORKER. 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. 1723

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 ''TARP Recipient Ownership Trust Act of 2009''.

SEC. 2. AUTHORITY OF THE SECRETARY OF THE TREASURY TO DELEGATE TARP ASSET MANAGEMENT.

Section 106(b) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5216(b)) is amended by inserting before the period at the end the following: '', and the Secretary may delegate such management authority to a private entity, as the Secretary determines appropriate, with respect to any entity assisted under this Act''.

SEC. 3. CREATION OF MANAGEMENT AUTHORITY FOR DESIGNATED TARP RECIPIENTS.

(a) FEDERAL ASSISTANCE LIMITED.—Notwithstanding any provision of the Emergency Economic Stabilization Act of 2008, or any other provision of law, no funds may be expended under the Troubled Asset Relief Program, or any other provision of that Act, on or after the date of enactment of this Act, until the Secretary transfers all voting, nonvoting, and common equity in any designated TARP recipient to a limited liability company established by the Secretary for such purpose, to be held and managed in trust on behalf of the United States taxpayers.

(b) APPOINTMENT OF TRUSTEES.—

(1) IN GENERAL.—The President shall appoint 3 independent trustees to manage the equity held in the trust, separate and apart from the United States Government.

(2) CRITERIA.—Trustees appointed under this subsection—

(A) may not be elected or appointed Government officials;

(B) shall serve at the pleasure of the President, and may be removed for just cause in violation of their fiduciary responsibilities only; and

(C) shall each be paid at a rate equal to the rate payable for positions at level III of the Executive Schedule under section 5311 of title 5, United States Code.

(c) DUTIES OF TRUST.—Pursuant to protecting the interests and investment of the United States taxpayer, the trust established under this section shall, with the purpose of maximizing the profitability of the designated TARP recipient—

(1) exercise the voting rights of the shares of the taxpayer on all core governance issues;

(2) select the representation on the boards of directors of any designated TARP recipient; and

(3) have a fiduciary duty to the American taxpayer for the maximization of the return on the investment of the taxpayer made under the Emergency Economic Stabilization Act of 2008, in the same manner and to the same extent that any director of an issuer of securities has with respect to its shareholders under the securities laws and all applications of State law.

(d) LIQUIDATION.—

(1) IN GENERAL.—The trustees shall liquidate the trust established under this section, including the assets held by such trust, not later than December 24, 2011, unless—

(A) the trustees submit a report to the Congress that liquidation would not maximize the profitability of the company and the return on investment to the taxpayer; and

(B) within 15 calendar days after the date on which the Congress receives such report, there is enacted into law a joint resolution disapproving the liquidation plan of the Secretary, as described in paragraph (2).

(2) CONTENTS OF JOINT RESOLUTION.—For purposes of this subsection, the term ''joint resolution'' means only a joint resolution—

(A) that is introduced not later than 3 calendar days after the date on which the report referred to in paragraph (1)(A) is received by the Congress;

(B) which does not have a preamble;

(C) the title of which is as follows: ''Joint resolution relating to the disapproval of the liquidation of the TARP management trust''; and

(D) the matter after the resolving clause of which is as follows: ''That Congress disapproves the liquidation of the TARP management trust established under the TARP Recipient Ownership Trust Act of 2009.''.

(3) FAST TRACK CONSIDERATION IN HOUSE OF REPRESENTATIVES.—

(A) RECONVENING.—Upon receipt of a report under paragraph (1)(A), the Speaker, if the House would otherwise be adjourned, shall

notify the Members of the House that, pursuant to this subsection, the House shall convene not later than the second calendar day after receipt of such report.

(B) REPORTING AND DISCHARGE.—Any committee of the House of Representatives to which a joint resolution is referred shall report it to the House not later than 5 calendar days after the date of receipt of the report described in paragraph (1)(A). If a committee fails to report the joint resolution within that period, the committee shall be discharged from further consideration of the joint resolution and the joint resolution shall be referred to the appropriate calendar.

(C) PROCEEDING TO CONSIDERATION.—After each committee authorized to consider a joint resolution reports it to the House or has been discharged from its consideration, it shall be in order, not later than the sixth day after Congress receives the report described in paragraph (1)(A), to move to proceed to consider the joint resolution in the House. All points of order against the motion are waived. Such a motion shall not be in order after the House has disposed of a motion to proceed on the joint resolution. The previous question shall be considered as ordered on the motion to its adoption without intervening motion. The motion shall not be debatable. A motion to reconsider the vote by which the motion is disposed of shall not be in order.

(D) CONSIDERATION.—The joint resolution shall be considered as read. All points of order against the joint resolution and against its consideration are waived. The previous question shall be considered as ordered on the joint resolution to its passage without intervening motion except two hours of debate equally divided and controlled by the proponent and an opponent. A motion to reconsider the vote on passage of the joint resolution shall not be in order.

(4) FAST TRACK CONSIDERATION IN SENATE.—

(A) RECONVENING.—Upon receipt of a report under paragraph (1)(A), if the Senate has adjourned or recessed for more than 2 days, the majority leader of the Senate, after consultation with the minority leader of the Senate, shall notify the Members of the Senate that, pursuant to this subsection, the Senate shall convene not later than the second calendar day after receipt of such message.

(B) PLACEMENT ON CALENDAR.—Upon introduction in the Senate, the joint resolution shall be placed immediately on the calendar.

(C) FLOOR CONSIDERATION.—

(i) IN GENERAL.—Notwithstanding Rule XXII of the Standing Rules of the Senate, it is in order at any time during the period beginning on the 4th day after the date on which Congress receives a report of the plan of the Secretary described in paragraph (1)(A) and ending on the 6th day after the date on which Congress receives a report of the plan of the Secretary described in paragraph (1)(A) (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against consideration of the joint resolution) are waived. The motion to proceed is not debatable. The motion is not subject to a motion to postpone. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the joint resolution shall remain the unfinished business until disposed of.

(ii) DEBATE.—Debate on the joint resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between the majority and minority leaders or their designees. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the joint resolution is not in order.

(iii) VOTE ON PASSAGE.—The vote on passage shall occur immediately following the conclusion of the debate on a joint resolution, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate.

(iv) RULINGS OF THE CHAIR ON PROCEDURE.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate, as the case may be, to the procedure relating to a joint resolution shall be decided without debate.

(5) RULES RELATING TO SENATE AND HOUSE OF REPRESENTATIVES.—

(A) COORDINATION WITH ACTION BY OTHER HOUSE.—If, before the passage by one House of a joint resolution of that House, that House receives from the other House a joint resolution, then the following procedures shall apply:

(i) The joint resolution of the other House shall not be referred to a committee.

(ii) With respect to a joint resolution of the House receiving the resolution—

(I) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

(II) the vote on passage shall be on the joint resolution of the other House.

(B) TREATMENT OF JOINT RESOLUTION OF OTHER HOUSE.—If one House fails to introduce or consider a joint resolution under this subsection, the joint resolution of the other House shall be entitled to expedited floor procedures under this subsection.

(C) TREATMENT OF COMPANION MEASURES.—If, following passage of the joint resolution in the Senate, the Senate then receives the companion measure from the House of Representatives, the companion measure shall not be debatable.

(D) CONSIDERATION AFTER PASSAGE.—

(i) IN GENERAL.—If Congress passes a joint resolution, the period beginning on the date the President is presented with the joint resolution and ending on the date the President takes action with respect to the joint resolution shall be disregarded in computing the 15-calendar day period described in paragraph (1)(A).

(ii) VETOES.—If the President vetoes the joint resolution—

(I) the period beginning on the date the President vetoes the joint resolution and ending on the date the Congress receives the veto message with respect to the joint resolution shall be disregarded in computing the 15-calendar day period described in paragraph (1)(A); and

(II) debate on a veto message in the Senate under this subsection shall be 1 hour equally divided between the majority and minority leaders or their designees.

(E) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—This paragraph, and paragraphs (2), (3), and (4) are enacted by Congress—

(i) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a joint resolution, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(ii) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

SEC. 4. DEFINITIONS.

As used in this Act—

(1) the term ''designated TARP recipient'' means any entity that has received, or will receive, financial assistance under the Troubled Asset Relief Program or any other provision of the Emergency Economic Stabilization Act of 2008 (Public Law 110–343), such that the Federal Government holds or controls, or will hold or control at a future date, not less than a 10 percent ownership stake in the company as a result of such assistance;

(2) the term ''Secretary'' means the Secretary of the Treasury or the designee of the Secretary; and

(3) the terms ''director'', ''issuer'', ''securities'', and ''securities laws'' have the same meanings as in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c).

By Mr. KYL. (for himself and Mr. CORNYN):

S. 1726. A bill to reauthorize the expiring intelligence tools of the USA PATRIOT Improvement and Reauthorization Act of 2005 and defend against terrorism through improved classified procedures and criminal law reforms, and for other purposes; to the Committee on the Judiciary.

Mr. KYL. Mr. President, earlier this month, we paid homage to those who lost their lives in the terrorist attacks on September 11, 2001. Those attacks changed our nation forever, including how we combat the very real and continuing threat of terrorism. One of the most important changes that we made in the wake of September 11 was the enactment of the PATRIOT Act. That legislation, which had strong bipartisan support in the Congress, provided for a number of common sense changes designed to give our national security intelligence community the same tools our police and FBI agents can use against drug dealers and organized crime. Although many of the PATRIOT Act's provisions are now permanent, three critical national security tools—the ''wiretap'' authority contained in Section 206 of the PATRIOT Act; the ''business records'' authority contained in Section 215 of the PATRIOT Act; and the ''lone wolf'' authority contained in Section 6001 of the Intelligence Reform and Terrorism Prevention Act of 2004—will expire on December 31 of this year.

The tools in the PATRIOT Act are as necessary today as they were when first enacted. Just this month, the government confirmed that the Foreign Intelligence Surveillance Act of 1978, FISA, which includes PATRIOT Act provisions, was used to build a case against Najibullah Zazi. Although many details remain classified, it appears as if Najibullah Zazi was an al Qaeda associate who was planning to detonate bombs within the U.S.

Similarly, it has been reported that the FBI likely used its roving wiretap and business records authorities—two of the PATRIOT Act's expiring provisions—to thwart a terrorist plot uncovered earlier this year in New York, in which four former convicts who converted to radical Islam plotted to use

explosives to blow up synagogues and shoot down airplanes with surface-to-air missiles.

Those are two high-profile examples from just this year. There are no doubt countless of other instances, not known to the public, where PATRIOT Act authorities have been used by our national security professionals to keep Americans safe. Recognizing the importance of these tools, the Department of Justice has written the Chairman of the Judiciary Committee to urge renewal of the expiring provisions of the PATRIOT Act. In addition, FBI Director Mueller and David Kris, the Assistant Attorney General for the National Security Division, both expressed their strong support for these authorities in testimony before the Judiciary Committee this month.

The reality is that the war on terrorism is not going to sunset. Neither should the tools that our investigators and analysts rely upon to prevent attack. That is why Mr. CORNYN and I are introducing today the USA PATRIOT Reauthorization and Additional Weapons Against Terrorism Act of 2009. This legislation permanently renews the three expiring PATRIOT Act provisions and addresses other critical national security needs.

I. RENEWING THE ROVING WIRETAP AUTHORITY

The roving wiretap authority allows the Government, in certain circumstances, to focus surveillance efforts on monitoring a particular target rather than a particular telephone number. Gone are the days when you used only one phone at home or in the office. Cell phones are ubiquitous. The point is to intercept the calls of a particular person, not a particular phone. Even so, the Government may have such authority only in limited circumstances. It must provide the FISA Court with ''specific facts'' indicating that the ''actions of the target of the application may have the effect of thwarting the identification'' of third parties necessary to accomplish the ordered surveillance. This tool helps ensure that investigators and analysts may overcome a target's efforts to avoid surveillance, for example, rapidly switching cell phone numbers.

As the Department of Justice noted in its September 14, 2009, letter to Chairman LEAHY, the roving wiretap authority has ''proven an important intelligence-gathering tool in a small but significant subset of FISA electronic surveillance orders.'' The Department's letter explains that the authority has been used judiciously—on average, only 22 applications for roving wiretaps have been made per year—and that ''the basic justification offered to Congress in 2001 for the roving authority remains valid today. . . . Any effective surveillance mechanism must incorporate the ability to rapidly address an unanticipated change in the target's communications behavior.''

II. RENEWING THE BUSINESS RECORDS AUTHORITY

The business records authority allows the FISA Court, under appropriate circumstances, to compel the production of needed business records. In its September 14 letter, the Department of Justice expressed its strong support for the business records provision, stating that it ''addresses a gap in intelligence collection authorities and has proven valuable in a number of contexts.'' The Department stated that some of the acquired ''orders were used to support important and highly sensitive intelligence collection operations, of which both Members of the Intelligence Committee and their staffs are aware.'' Although some have questioned the scope and use of this authority, it is important to acknowledge that no one has challenged a business records order in court, even though an explicit right to file such a challenge took effect in 2006. Such authority also exists in at least 300 federal government investigative contexts.

III. RENEWING THE LONE WOLF AUTHORITY

The ''lone wolf'' provision fills a critical intelligence gap in situations where the government can establish that a non-United States person is engaged in international terrorism but cannot yet identify the foreign power or terrorist group to which he belongs. Although this authority has not yet been used, the Department of Justice made clear in its September 14 letter that there are foreseeable situations in which such an authority ''would be the only avenue to effective surveillance.'' The Department stated that ''it is essential to have the tool available for the rare situation in which it is necessary rather than to delay surveillance of a terrorist in the hopes that the necessary links are established.'' Had we had this authority at the time, we could have examined the computer of Zacarias Moussaoui, perhaps gaining enough information to provide some warning of 9/11. Terrorists do not carry membership cards in organizations, but it does not make them any less dangerous.

IV. ADDRESSING OTHER NATIONAL SECURITY NEEDS

In addition to reauthorizing these important national security tools, this legislation responds to several other national security needs. For example, it clarifies what kind of information and disclosures trigger the procedures of the Classified Information Procedures Act, CIPA. This clarification is designed to resolve the difficulties created by the Fourth Circuit's approach in United States v. Moussaoui. The legislation also prohibits individuals from providing material support—for example, providing money to support a suicide bomber's family—to international terrorism efforts. It makes it illegal to conspire to violate the current prohibition on receiving military-type training from a foreign terrorist organization. It prohibits the use, transfer, mass transfer, production, and trafficking of false travel documents. Finally, it ensures that convicted terrorists and sex offenders will not be released pending sentencing or appeal.

These are good, common sense provisions that all members should be able to support. I look forward to working with my colleagues on both sides to ensure that our national security professionals have the tools they need to continue finding and apprehending terrorists before they attack.

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. 1726

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''USA PATRIOT Reauthorization and Additional Weapons Against Terrorism Act of 2009''.

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

Sec. 1. Short title; table of contents.

TITLE I—USA PATRIOT REAUTHORIZATION ACT OF 2009

Sec. 101. Short title.
Sec. 102. USA Patriot Improvement and Reauthorization Act repeal of sunset provisions.
Sec. 103. Repeal of sunset relating to individual terrorists as agents of foreign powers.

TITLE II—CLASSIFIED INFORMATION PROCEDURES REFORM ACT

Sec. 201. Short title.
Sec. 202. Definitions.
Sec. 203. Ex parte authorizations under the Classified Information Procedures Act.
Sec. 204. Application of Classified Information Procedures Act to nondocumentary information.
Sec. 205. Interlocutory appeals under the Classified Information Procedures Act.

TITLE III—ADDITIONAL GOVERNMENT WEAPONS AGAINST TERRORISM ACT

Sec. 301. Short title.
Sec. 302. Prevention and deterrence of material support for terrorist suicide bombings.
Sec. 303. Prohibiting attempts and conspiracies to obtain military-type training from a foreign terrorist organization.
Sec. 304. Prohibiting use of false travel documents.
Sec. 305. Preventing unwarranted release of convicted terrorists and sex offenders pending sentencing or appeal.

TITLE I—USA PATRIOT REAUTHORIZATION ACT OF 2009

SEC. 101. SHORT TITLE.

This title may be cited as the ''USA PATRIOT Reauthorization Act of 2009''.

SEC. 102. USA PATRIOT IMPROVEMENT AND REAUTHORIZATION ACT REPEAL OF SUNSET PROVISIONS.

Section 102(b) of the USA PATRIOT Improvement and Reauthorization Act of 2005 (Public Law 109–177; 50 U.S.C. 1805 note, 50 U.S.C. 1861 note, and 50 U.S.C. 1862 note) is repealed.

SEC. 103. REPEAL OF SUNSET RELATING TO INDIVIDUAL TERRORISTS AS AGENTS OF FOREIGN POWERS.

Section 6001(b) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 50 U.S.C. 1801 note) is repealed.

TITLE II—CLASSIFIED INFORMATION PROCEDURES REFORM ACT

SEC. 201. SHORT TITLE.

This title may be cited as the ''Classified Information Procedures Reform Act of 2009''.

SEC. 202. DEFINITIONS.

(a) IN GENERAL.—Section 1 of the Classified Information Procedures Act (18 U.S.C. App.) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following:

''(b) 'Disclosure', as used in this Act—

''(1) means the release, transmittal, or making available of, or providing access to, classified information to any person (including a defendant or counsel for a defendant) during discovery, or to a participant or member of the public at any proceeding; and

''(2) does not include the release, transmittal, or making available of, or providing access to, classified information by the defendant to an attorney representing the defendant in a matter who has received—

''(A) the necessary security clearance to receive the classified information; and

''(B) if the classified information has been designated as sensitive compartmented information or special access program information, any additional required authorization to receive the classified information, .''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 501(3) of the Immigration and Nationality Act (8 U.S.C. 1531(3)) is amended by striking ''section 1(b)'' and inserting ''section 1''.

SEC. 203. EX PARTE AUTHORIZATIONS UNDER THE CLASSIFIED INFORMATION PROCEDURES ACT.

Section 4 of the Classified Information Procedures Act (18 U.S.C. App.) is amended—

(1) in the second sentence—

(A) by striking ''may'' and inserting ''shall''; and

(B) by striking ''authorization in the form of a written statement to be inspected'' and inserting ''authorization, together with any argument in support of that request, in the form of a statement made ex parte and to be considered''; and

(2) in the third sentence—

(A) by striking ''If the court enters an order granting relief following such an ex parte showing, the'' and inserting ''The''; and

(B) inserting '', and the transcript of any argument and any summary of the classified information the defendant seeks to obtain,'' after ''text of the statement of the United States''.

SEC. 204. APPLICATION OF CLASSIFIED INFORMATION PROCEDURES ACT TO NONDOCUMENTARY INFORMATION.

Section 4 of the Classified Information Procedures Act (18 U.S.C. App.), as amended by section 203 of this Act, is amended—

(1) in the section heading, by inserting ''AND ACCESS TO'' after ''OF'';

(2) by inserting ''(a) IN GENERAL.—'' before ''The court, upon''; and

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

''(b) ACCESS TO OTHER CLASSIFIED INFORMATION.—(1) If the defendant seeks access through deposition under the Federal Rules of Criminal Procedure or otherwise to nondocumentary information from a potential witness or other person which the defendant knows or reasonably believes is classified, the defendant shall notify the attorney for the United States and the district court in writing. Such notice shall specify with particularity the classified information sought by the defendant and the legal basis for such access. At a time set by the court, the United States may oppose such access to the classified information.

''(2) If, after consideration of any objection raised by the United States, including any objection asserted on the basis of privilege, the court determines that the defendant is legally entitled to have access to the information specified in a notice made under paragraph (1), the United States may request the substitution of a summary of the classified information or the substitution of a statement admitting relevant facts that the classified information would tend to prove.

''(3) The court shall permit the United States to make an objection to access to classified information under paragraph (1) or a request for a substitution under paragraph (2) in the form of a statement made ex parte and to be considered by the court alone. The entire text of the statement of the United States, and any summary of the classified information the defendant seeks to obtain, shall be sealed and preserved in the records of the court and made available to the appellate court in the event of an appeal.

''(4) A court shall grant the request of the United States to substitute a summary of the classified information or to substitute a statement admitting relevant facts that the classified information would tend to prove under paragraph (2) if the court finds that the summary or statement will provide the defendant with substantially the same ability to make a defense as would disclosure of the specific classified information.

''(5) A defendant may not obtain access to classified information subject to this subsection except as provided in this subsection. Any proceeding, whether by deposition under the Federal Rules of Criminal Procedure or otherwise, in which a defendant seeks to obtain access to classified information subject to this subsection not previously authorized by a court for disclosure under this subsection shall be discontinued or may proceed only as to lines of inquiry not involving the classified information.''.

SEC. 205. INTERLOCUTORY APPEALS UNDER THE CLASSIFIED INFORMATION PROCEDURES ACT.

Section 7(a) of the Classified Information Procedures Act (18 U.S.C. App.) is amended by adding the following at the end: ''The right of the United States to appeal under this subsection applies without regard to whether the order appealed from was entered under this Act.''.

TITLE III—ADDITIONAL GOVERNMENT WEAPONS AGAINST TERRORISM ACT

SEC. 301. SHORT TITLE.

This title may be cited as the ''Additional Government Weapons Against Terrorism Act of 2009''.

SEC. 302. PREVENTION AND DETERRENCE OF MATERIAL SUPPORT FOR TERRORIST SUICIDE BOMBINGS.

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, is amended by adding at the end the following:

''§ 2339E. Providing material support to international terrorism

''(a) DEFINITIONS.—In this section—

''(1) the term 'facility of interstate or foreign commerce' has the meaning given that term in section 1958;

''(2) the term 'material support or resources' has the meaning given that term in section 2339A;

''(3) the term 'perpetrator of an act' includes any person who—

''(A) commits the act;

''(B) aids, abets, counsels, commands, induces, or procures the commission of the act; or

''(C) attempts, plots, or conspires to commit the act; and

''(4) the term 'serious bodily injury' has the meaning given that term in section 1365.

''(b) PROHIBITION.—Whoever, in a circumstance described in subsection (c), provides, or attempts or conspires to provide, material support or resources to the perpetrator of an act of international terrorism, to a family member of the perpetrator of an act of international terrorism, or to any other person, with the intent to facilitate, reward, or encourage that act or other acts of international terrorism, shall be fined under this title, imprisoned not more than 15 years, or both, and, if death results, shall be imprisoned for any term of years or for life.

''(c) JURISDICTIONAL BASES.—A circumstance referred to in this subsection is that—

''(1) the offense occurs in or affects interstate or foreign commerce;

''(2) the offense involves the use of the mails or a facility of interstate or foreign commerce;

''(3) an offender intends to facilitate, reward, or encourage an act of international terrorism that affects interstate or foreign commerce or would have affected interstate or foreign commerce had the act been consummated;

''(4) an offender intends to facilitate, reward, or encourage an act of international terrorism that violates the criminal laws of the United States;

''(5) an offender intends to facilitate, reward, or encourage an act of international terrorism that is designed to influence the policy or affect the conduct of the United States Government;

''(6) an offender intends to facilitate, reward, or encourage an act of international terrorism that occurs in part within the United States and is designed to influence the policy or affect the conduct of a foreign government;

''(7) an offender intends to facilitate, reward, or encourage an act of international terrorism that causes or is designed to cause death or serious bodily injury to a national of the United States while that national is outside the United States, or substantial damage to the property of a legal entity organized under the laws of the United States (including any State, district, commonwealth, territory, or possession of the United States) while that property is outside of the United States;

''(8) the offense occurs in whole or in part within the United States, and an offender intends to facilitate, reward, or encourage an act of international terrorism that is designed to influence the policy or affect the conduct of a foreign government; or

''(9) the offense occurs in whole or in part outside of the United States, and an offender is a national of the United States, a stateless person whose habitual residence is in the United States, or a legal entity organized under the laws of the United States (including any State, district, commonwealth, territory, or possession of the United States).''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) TABLE OF SECTIONS.—The table of sections for chapter 113B of title 18, United States Code, is amended by adding at the end the following:

''2339D. Receiving military-type training from a foreign terrorist organization.

''2339E. Providing material support to international terrorism.''.

(2) OTHER AMENDMENT.—Section 2332b(g)(5)(B)(i) of title 18, United States Code, is amended by inserting ''2339E (relating to providing material support to international terrorism),'' before ''or 2340A (relating to torture)''.

SEC. 303. PROHIBITING ATTEMPTS AND CONSPIRACIES TO OBTAIN MILITARY-TYPE TRAINING FROM A FOREIGN TERRORIST ORGANIZATION.

Section 2339D(a) of title 18, United States Code, is amended by inserting ‘‘, or attempts or conspires to do so,’’ after ‘‘foreign terrorist organization’’.

SEC. 304. PROHIBITING USE OF FALSE TRAVEL DOCUMENTS.

(a) IN GENERAL.—Section 1028 of title 18, United States Code, is amended—

(1) in the section heading, by inserting ‘‘**false travel documents,**’’ after ‘‘**identification documents,**’’;

(2) in subsection (a)—

(A) in paragraph (1), by striking ‘‘or a false identification document’’ and inserting ‘‘false identification document, or false travel document’’;

(B) in paragraph (2), by striking ‘‘or a false identification document’’ and inserting ‘‘false identification document, or false travel document’’;

(C) in paragraph (3), by striking ‘‘or false identification documents’’ and inserting ‘‘false identification documents, or false travel documents’’;

(D) in paragraph (5), by inserting ‘‘, false travel document,’’ after ‘‘false identification document’’; and

(E) in paragraph (8), by inserting ‘‘false travel documents,’’ after ‘‘false identification documents,’’;

(3) in subsection (b)—

(A) in paragraph (1)(B), by striking ‘‘or false identification documents’’ and inserting ‘‘false identification documents, or false travel documents’’; and

(B) in paragraph (2)(A)—

(i) by striking ‘‘document,,’’ and inserting ‘‘document,’’; and

(ii) by striking ‘‘or a false identification document’’ and inserting ‘‘a false identification document, or a false travel document’’;

(4) in subsection (c)(3)(B), by inserting ‘‘false travel document,’’ after ‘‘false identification document,’’;

(5) in subsection (d)—

(A) in paragraph (11), by striking ‘‘and’’ at the end;

(B) in paragraph (12), by striking the period at the end and inserting ‘‘; and’’; and

(C) by adding at the end the following:

‘‘(13) the term ‘false travel document’ means a document issued for the use of a particular, identified individual and of a type intended or commonly accepted for the purposes of passage on a commercial aircraft or mass transportation vehicle, including a ticket or boarding pass, that—

‘‘(A) was not issued by or under the authority of a commercial airline or mass transportation provider, but appears to be issued by or under the authority of a commercial airline or mass transportation provider; or

‘‘(B) was issued by or under the authority of a commercial airline or mass transportation provider, and was subsequently altered for purposes of deceit.’’; and

(6) in subsection (h), by inserting ‘‘false travel documents,’’ after ‘‘identification documents,’’.

(b) TECHNICAL AMENDMENT.—The table of sections for chapter 47 of title 18, United States Code, is amended by striking the item related to section 1028 and inserting the following:

‘‘1028. Fraud and related activity in connection with identification documents, false travel documents, authentication features, and information.’’.

SEC. 305. PREVENTING UNWARRANTED RELEASE OF CONVICTED TERRORISTS AND SEX OFFENDERS PENDING SENTENCING OR APPEAL.

(a) IN GENERAL.—Section 3145 of title 18, United States Code, is amended by adding at the end the following:

‘‘(d) APPLICATION.—No person shall be eligible for release under subsection (c) based on exceptional reasons if the person is being detained pending sentencing or appeal in a case involving—

‘‘(1) an offense under section 2332b of this title;

‘‘(2) an offense listed in section 2332b(g)(5)(B) of this title for which a maximum term of imprisonment of 10 years or more is prescribed; or

‘‘(3) an offense involving a minor victim under section 1201, 1591, 2241, 2242, 2244(a)(1), 2245, 2251, 2251A, 2252(a)(1), 2252(a)(2), 2252(a)(3), 2252A(a)(1), 2252A(a)(2), 2252A(a)(3), 2252A(a)(4), 2260, 2421, 2422, 2423, or 2425 of this title.’’.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 290—TO CONSTITUTE THE MAJORITY PARTY'S MEMBERSHIP ON CERTAIN COMMITTEES FOR THE ONE HUNDRED ELEVENTH CONGRESS, OR UNTIL THEIR SUCCESSORS ARE CHOSEN

Mr. REID submitted the following resolution; which was considered and agreed to:

S. RES. 290

Resolved, That the following shall constitute the majority party's membership on the following committees for the One Hundred Eleventh Congress, or until their successors are chosen:

COMMITTEE ON ARMED SERVICES: Mr. Levin (Chairman), Mr. Byrd, Mr. Lieberman, Mr. Reed, Mr. Akaka, Mr. Nelson (Florida), Mr. Nelson (Nebraska), Mr. Bayh, Mr. Webb, Mrs. McCaskill, Mr. Udall (Colorado), Mrs. Hagan, Mr. Begich, Mr. Burris, and Mr. Kirk.

COMMITTEE ON HEALTH, EDUCATION, LABOR AND PENSIONS: Mr. Harkin (Chairman), Mr. Dodd, Ms. Mikulski, Mr. Bingaman, Mrs. Murray, Mr. Reed, Mr. Sanders, Mr. Brown, Mr. Casey, Mrs. Hagan, Mr. Merkley, Mr. Franken, and Mr. Bennet.

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS: Mr. Lieberman (Chairman), Mr. Levin, Mr. Akaka, Mr. Carper, Mr. Pryor, Ms. Landrieu, Mrs. McCaskill, Mr. Tester, Mr. Burris, and Mr. Kirk.

JOINT ECONOMIC COMMITTEE: Mr. Schumer (Vice Chairman), Mr. Bingaman, Ms. Klobuchar, Mr. Casey, Mr. Webb, and Mr. Warner.

SENATE RESOLUTION 291—EXPRESSING SUPPORT FOR THE GOALS OF NATIONAL ADOPTION DAY AND NATIONAL ADOPTION MONTH BY PROMOTING NATIONAL AWARENESS OF ADOPTION AND THE CHILDREN AWAITING FAMILIES, CELEBRATING CHILDREN AND FAMILIES INVOLVED IN ADOPTION, AND ENCOURAGING AMERICANS TO SECURE SAFETY, PERMANENCY, AND WELL-BEING FOR ALL CHILDREN

Ms. LANDRIEU (for herself, Mrs. LINCOLN, Mr. LEVIN, Mr. BURR, Mr. KERRY, Mr. DEMINT, Mr. ROBERTS, Mr. THUNE, Mr. ALEXANDER, Mr. MENENDEZ, Mr. BROWNBACK, Mr. BAUCUS, Mr. REID, Mr. LAUTENBERG, Mr. LIEBERMAN, Mr. VITTER, Mr. CARDIN, Mr. DURBIN, Mr. JOHNSON, Ms. KLOBUCHAR, Mr. INHOFE, Mr. BEGICH, Mrs. HUTCHISON, Mrs. GILLIBRAND, Mr. CONRAD, Mr. FRANKEN, Mr. JOHANNS, Mr. HATCH, Ms. COLLINS, Mr. NELSON of Nebraska, Mr. BROWN, Mr. GREGG, Mr. SPECTER, Mr. CASEY, Mr. MERKLEY, Mr. DODD, and Mr. RISCH) submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. RES. 291

Whereas there are approximately 510,000 children in the foster care system in the United States, approximately 129,000 of whom are waiting for families to adopt them;

Whereas 61 percent of the children in foster care are age 10 or younger;

Whereas the average length of time a child spends in foster care is over 3 years;

Whereas, for many foster children, the wait for a loving family in which they are nurtured, comforted, and protected seems endless;

Whereas the number of youth who ‘‘age out’’ of foster care by reaching adulthood without being placed in a permanent home has continued to increase since 1998, and more than 26,000 foster youth age out every year;

Whereas every day loving and nurturing families are strengthened and expanded when committed and dedicated individuals make an important difference in the life of a child through adoption;

Whereas a 2007 survey conducted by the Dave Thomas Foundation for Adoption demonstrated that though ‘‘Americans overwhelmingly support the concept of adoption, and in particular foster care adoption . . . foster care adoptions have not increased significantly over the past five years’’;

Whereas, while 4 in 10 Americans have considered adoption, a majority of Americans have misperceptions about the process of adopting children from foster care and the children who are eligible for adoption;

Whereas 71 percent of those who have considered adoption consider adopting children from foster care above other forms of adoption;

Whereas 45 percent of Americans believe that children enter the foster care system because of juvenile delinquency, when in reality the vast majority of children who have entered the foster care system were victims of neglect, abandonment, or abuse;

Whereas 46 percent of Americans believe that foster care adoption is expensive, when in reality there is no substantial cost for adopting from foster care and financial support is available to adoptive parents after the adoption is finalized;

Whereas both National Adoption Day and National Adoption Month occur in November;

Whereas National Adoption Day is a collective national effort to find permanent, loving families for children in the foster care system;

Whereas, since the first National Adoption Day in 2000, more than 25,000 children have joined forever families during National Adoption Day;

Whereas, in 2008, adoptions were finalized for over 4,500 children through more than 325 National Adoption Day events in all 50 States, the District of Columbia, Puerto Rico, and Guam; and

Whereas the President traditionally issues an annual proclamation to declare November as National Adoption Month, and National Adoption Day is on November 21, 2009: Now, therefore, be it

Resolved, That the Senate—

(1) supports the goals and ideals of National Adoption Day and National Adoption Month;

(2) recognizes that every child should have a permanent and loving family; and

(3) encourages the citizens of the United States to consider adoption during the month of November and all throughout the year.

SENATE RESOLUTION 292—CONGRATULATING THE PARK VIEW ALL-STAR LITTLE LEAGUE TEAM FOR WINNING THE 2009 LITTLE LEAGUE WORLD SERIES CHAMPIONSHIP

Mrs. BOXER (for herself and Mrs. FEINSTEIN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 292

Whereas on August 30, 2009, the Park View All-Star Little League team, affectionately known as the ''Blue Bombers'', of Chula Vista, California defeated the Kuei-Shan Little League team of Chinese Taipei, by a score of 6–3 to win the 2009 Little League World Series at Williamsport, Pennsylvania, becoming the 2009 Little League World Series champions;

Whereas in their previous game, the Blue Bombers defeated a versatile and dynamic team from San Antonio, Texas, winning 12–2 in 4 innings to become the United States Little League champions;

Whereas the Park View All-Star Little League team is the first San Diego County team to win a Little League World Series championship since 1961 and the first team from California to win the championship since 1993;

Whereas 2009 is the fifth time a Little League World Series champion has been crowned from California and the 31st time a United States team has won the Little League World Series championship;

Whereas the Blue Bombers set the record for most home runs in the Little League World Series, with 19 home runs overall in the tournament, besting the previous record by an incredible 6 home runs;

Whereas the Park View All-Star Little League team is comprised of: Bradley Roberto, Andy Rios, Markus Melin, Nick Conlin, Seth Godfrey, Bulla Graft, Daniel Porras, Jr., Jensen Peterson, Kiko Garcia, Luke Ramirez, Isaiah Armenta, and Oscar Castro;

Whereas the Park View All-Star Little League championship team is coached by Ric Ramirez and managed by Oscar Castro;

Whereas true to the Little League pledge, the Blue Bombers played with heart, dignity, and class and, in a gesture of extraordinary sportsmanship, the Blue Bombers invited the Chinese Taipei team to join them on their victory lap around the field at Williamsport;

Whereas while the Park View All-Star Little League team is made up of 12 all-stars that won the championship, the entire league is made up of more than 400 players and thousands of family members of players, who are all part of this success; and

Whereas the victory by the Park View All-Star Little League team has brought tremendous excitement and pride to the city of Chula Vista, the county of San Diego, the State of California, and the United States: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the Park View All-Star Little League team from Chula Vista, California for winning the 2009 Little League World Series championship; and

(2) commends the families, coaches, volunteers, and community of the team, whose untold dedication and countless hours of volunteerism contributed to the team's success on and off the field.

SENATE RESOLUTION 293—RELATIVE TO THE DEATH OF HENRY LOUIS BELLMON, FORMER UNITED STATES SENATOR FOR THE STATE OF OKLAHOMA

Mr. REID (for himself, Mr. MCCONNELL, Mr. INHOFE, Mr. COBURN, Mr. AKAKA, Mr. ALEXANDER, Mr. BARRASSO, Mr. BAUCUS, Mr. BAYH, Mr. BEGICH, Mr. BENNET, Mr. BENNETT, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BROWN, Mr. BROWNBACK, Mr. BUNNING, Mr. BURR, Mr. BURRIS, Mr. BYRD, Ms. CANTWELL, Mr. CARDIN, Mr. CARPER, Mr. CASEY, Mr. CHAMBLISS, Mr. COCHRAN, Ms. COLLINS, Mr. CONRAD, Mr. CORKER, Mr. CORNYN, Mr. CRAPO, Mr. DEMINT, Mr. DODD, Mr. DORGAN, Mr. DURBIN, Mr. ENSIGN, Mr. ENZI, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. FRANKEN, Mrs. GILLIBRAND, Mr. GRAHAM, Mr. GRASSLEY, Mr. GREGG, Mrs. HAGAN, Mr. HARKIN, Mr. HATCH, Mrs. HUTCHISON, Mr. INOUYE, Mr. ISAKSON, Mr. JOHANNS, Mr. JOHNSON, Mr. KAUFMAN, Mr. KERRY, Mr. KIRK, Ms. KLOBUCHAR, Mr. KOHL, Mr. KYL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEMIEUX, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. LUGAR, Mr. MCCAIN, Mrs. MCCASKILL, Mr. MENENDEZ, Mr. MERKLEY, Ms. MIKULSKI, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Nebraska, Mr. NELSON of Florida, Mr. PRYOR, Mr. REED, Mr. RISCH, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. SANDERS, Mr. SCHUMER, Mr. SESSIONS, Mrs. SHAHEEN, Mr. SHELBY, Ms. SNOWE, Mr. SPECTER, Ms. STABENOW, MR. TESTER, Mr. THUNE, Mr. UDALL of Colorado, Mr. UDALL of New Mexico, Mr. VITTER, Mr. VOINOVICH, Mr. WARNER, Mr. WEBB, Mr. WHITEHOUSE, Mr. WICKER, and Mr. WYDEN) submitted the following resolution; which was considered and agreed to:

S. RES. 293

Whereas Henry Bellmon served as a United States Marine from 1942–1946, where he served as a platoon tank commander in the Pacific theater, and was awarded the Legion of Merit for his service in Saipan and the Silver Star for bravery in action on Iwo Jima;

Whereas Henry Bellmon served as a Major in the Marine Corps Reserve until 1954;

Whereas Henry Bellmon served two nonconsecutive terms as governor of the State of Oklahoma from 1963–1967, when he was elected as the state's first Republican governor, and from 1987–1991; and

Whereas Henry Bellmon served the people of Oklahoma with distinction for 12 years in the United States Senate from 1969–1981;

Resolved, that the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable Henry Bellmon, former member of the United States Senate.

Resolved, That the Secretary of the Senate communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns today, it stand adjourned as a further mark of respect to the memory of the Honorable Henry Bellmon.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2558. Mr. MCCAIN proposed an amendment to the bill H.R. 3326, making appropriations for the Department of Defense for the fiscal year ending September 30, 2010, and for other purposes.

SA 2559. Mr. SANDERS (for himself, Mr. BYRD, and Mr. FEINGOLD) submitted an amendment intended to be proposed by him to the bill H.R. 3326, supra; which was ordered to lie on the table.

SA 2560. Mr. MCCAIN (for himself, Mr. FEINGOLD, and Mr. COBURN) submitted an amendment intended to be proposed by him to the bill H.R. 3326, supra; which was ordered to lie on the table.

SA 2561. Mr. CASEY submitted an amendment intended to be proposed by him to the bill H.R. 3326, supra; which was ordered to lie on the table.

SA 2562. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 3326, supra; which was ordered to lie on the table.

SA 2563. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 3326, supra; which was ordered to lie on the table.

SA 2564. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 3326, supra; which was ordered to lie on the table.

SA 2565. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 3326, supra; which was ordered to lie on the table.

SA 2566. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 3326, supra; which was ordered to lie on the table.

SA 2567. Mr. BARRASSO submitted an amendment intended to be proposed by him to the bill H.R. 3326, supra; which was ordered to lie on the table.

SA 2568. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 3326, supra; which was ordered to lie on the table.

SA 2569. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 3326, supra; which was ordered to lie on the table.

SA 2570. Mrs. FEINSTEIN (for herself and Mr. LEAHY) submitted an amendment intended to be proposed by her to the bill H.R. 3326, supra; which was ordered to lie on the table.

SA 2571. Mr. BYRD submitted an amendment intended to be proposed by him to the bill H.R. 3326, supra; which was ordered to lie on the table.

SA 2572. Mr. DODD (for himself and Mr. CHAMBLISS) submitted an amendment intended to be proposed by him to the bill H.R. 3326, supra; which was ordered to lie on the table.

SA 2573. Mr. CARDIN submitted an amendment intended to be proposed by him to the bill H.R. 3326, supra; which was ordered to lie on the table.

SA 2574. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 3326, supra; which was ordered to lie on the table.

SA 2575. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 3326, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2558. Mr. MCCAIN proposed an amendment to the bill H.R. 3326, making appropriations for the Department of Defense for the fiscal year ending September 30, 2010, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ____. (a) REDUCTION OF AIRCRAFT PROCUREMENT, AIR FORCE, FOR EXCESS AMOUNTS FOR C–17 AIRCRAFT.—The amount appropriated by title III under the heading ''AIRCRAFT PROCUREMENT, AIR FORCE'' is hereby reduced by $2,500,000,000, the amount equal to the amount by which the amount available under that heading for the procurement of C–17 aircraft exceeds the amount requested by the President in the budget for the Department of Defense for fiscal year 2010 for the procurement of such aircraft, with the amount of the reduction to be allocated to amounts otherwise available for the procurement of such aircraft.

(b) AVAILABILITY FOR OPERATION AND MAINTENANCE.—The amount appropriated by title II for Operation and Maintenance is hereby increased by $2,438,403,000, in accordance with amounts requested by the President in the budget for the Department of Defense for fiscal year 2010.

(c) AVAILABILITY FOR OPERATION AND MAINTENANCE, ARMY, FOR OVERSEAS CONTINGENCY OPERATIONS.—The amount appropriated by title IX under the heading ''OPERATION AND MAINTENANCE, ARMY'', is hereby increased by $61,597,000.

SA 2559. Mr. SANDERS (for himself, Mr. BYRD, and Mr. FEINGOLD) submitted an amendment intended to be proposed by him to the bill H.R. 3326, making appropriations for the Department of Defense for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. Of the amount appropriated or otherwise made available by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY'', $12,000,000 shall be available for the peer-reviewed Gulf War Illness Research Program of the Army run by Congressionally Directed Medical Research Programs.

SA 2560. Mr. MCCAIN (for himself, Mr. FEINGOLD, and Mr. COBURN) submitted an amendment intended to be proposed by him to the bill H.R. 3326, making appropriations for the Department of Defense for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. Any specific project contained in the Joint Explanatory statement accompanying this Act that is considered a congressional earmark for purposes of clause 9 of rule XXI of the Rules of the House of Representatives or a congressionally directed spending item as defined in rule XLIV of the Standing Rules of the Senate, when intended to be awarded to a for-profit entity, shall be awarded under full and open competition.

SA 2561. Mr. CASEY submitted an amendment intended to be proposed by him to the bill H.R. 3326, making appropriations for the Department of Defense for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. (a) LIMITATION ON AVAILABILITY OF FUNDS FOR EXECUTION OF CONTRACTS UNDER LOGCAP.—None of the funds appropriated or otherwise made available by this Act may be obligated or expended for the execution of a contract under the Logistics Civil Augmentation Program (LOGCAP) unless the Secretary of the Army determines that the contract explicitly requires the contractor to inspect and immediately correct deficiencies that present an imminent threat of death or serious bodily injury so as to ensure compliance with the United States National Electric Code in work under the contract.

(b) WAIVER.—The Secretary of the Army may waive the applicability of the limitation in subsection (a) to any contract if the Secretary certifies in writing to Congress that—

(1) the waiver is necessary for the provision of essential services to troops in the field; or

(2) the work under such contract does not present an imminent threat of death or serious bodily injury.

SA 2562. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 3326, making appropriations for the Department of Defense for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 245, between lines 8 and 9, insert the following:

SEC. 8104. (a) It is the sense of Congress that—

(1) the Nevada Test Site of the National Nuclear Security Administration can play an effective and essential role in developing and demonstrating—

(A) innovative and effective methods for treaty verification and the detection of nuclear weapons and other materials; and

(B) related threat reduction technologies; and

(2) the Administrator for Nuclear Security should expand the mission of the Nevada Test Site to carry out the role described in paragraph (1), including by—

(A) fully utilizing the inherent capabilities and uniquely secure location of the Site;

(B) continuing to support the Nation's nuclear weapons program and other national security programs; and

(C) renaming the Site to reflect the expanded mission of the Site.

(b) Not later than one year after the date of the enactment of this Act, the Administrator for Nuclear Security shall submit to the congressional defense committees a plan for improving the infrastructure of the Nevada Test Site of the National Nuclear Security Administration—

(1) to fulfill the expanded mission of the Site described in subsection (a); and

(2) to make the Site available to support the threat reduction programs of the entire national security community, including threat reduction programs of the National Nuclear Security Administration, the Defense Threat Reduction Agency, the Department of Homeland Security, and other agencies as appropriate.

SA 2563. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 3326, making appropriations for the Department of Defense for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. (a) Notwithstanding any other provision of this Act and except as provided in subsection (b), any report required to be submitted by a Federal agency or department to the Committee on Appropriations of either the Senate or the House of Representatives in this Act shall be posted on the public website of that agency upon receipt by the committee.

(b) Subsection (a) shall not apply to a report if—

(1) the public posting of the report compromises national security; or

(2) the report contains proprietary information.

SA 2564. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 3326, making appropriations for the Department of Defense for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 239, beginning on line 21, strike ''the total amount'' and all that follows through ''$236,000,000'' and insert ''the total amount appropriated in title III of this Act is hereby reduced by $322,000,000, the total amount appropriated in title IV of this Act is hereby reduced by $530,000''.

SA 2565. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 3326, making appropriations for the Department of Defense for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 177, line 23, strike ''the modernization'' and all that follows through line 25 and insert the following: ''and the Secretary of Defense, who upon completion of a thorough review, shall provide to each standing committee of Congress a modernization priority assessment for their respective Reserve or National Guard component.''.

SA 2566. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 3326, making appropriations for the Department of Defense for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. No amounts appropriated or otherwise made available by this Act may be obligated or expended to fund any congressionally directed spending item included in the report of the Committee on Appropriations of the Senate (Senate Report 111–74) with respect to any account as follows:

(1) Operation and Maintenance, Army.

(2) Operation and Maintenance, Navy.

(3) Operation and Maintenance, Marine Corps.

(4) Operation and Maintenance, Air Force.

(5) Operation and Maintenance, Defense-Wide.

(6) Operation and Maintenance, Army Reserve.

(7) Operation and Maintenance, Navy Reserve.

(8) Operation and Maintenance, Marine Corps Reserve.

(9) Operation and Maintenance, Air Force Reserve.

(10) Operation and Maintenance, Army National Guard

(11) Operation and Maintenance, Air National Guard.

SA 2567. Mr. BARRASSO submitted an amendment intended to be proposed by him to the bill H.R. 3326, making appropriations for the Department of Defense for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. No amounts appropriated or otherwise made available by this Act may be available for the Center on Climate Change and National Security of the Central Intelligence Agency.

SA 2568. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 3326, making appropriations for the Department of Defense for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. Of the amounts appropriated or otherwise made available by title II under the heading ''OPERATION AND MAINTENANCE, DEFENSE-WIDE'' and available for the Office of the Secretary of Defense, up to $250,000 may be available to the Under Secretary of Defense for Policy for the declassification of the nuclear posture review conducted under section 1041 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–262) upon the release of the nuclear posture review to succeed such nuclear posture review.

SA 2569. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 3326, making appropriations for the Department of Defense for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 239, beginning on line 21, strike ''the total amount'' and all that follows through ''$236,000,000'' and insert ''the total amount appropriated in title III of this Act is hereby reduced by $322,000,000, the total amount appropriated in title IV of this Act is hereby reduced by $530,000,000''.

SA 2570. Mrs. FEINSTEIN (for herself and Mr. LEAHY) submitted an amendment intended to be proposed by her to the bill H.R. 3326, making appropriations for the Department of Defense for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 245, between lines 8 and 9, insert the following:

SEC. 8104. (a) No funds appropriated or otherwise available by this Act may be obligated or expended to use any cluster munitions unless—

(1) the submunitions of the cluster munitions, after arming, do not result in more than 1 percent unexploded ordnance across the range of intended operational environments; and

(2) the policy applicable to the use of such cluster munitions specifies that the cluster munitions will only be used against clearly defined military targets and will not be used where civilians are known to be present or in areas normally inhabited by civilians.

(b) The President may waive the requirement under subsection (a)(1) if, prior to the use of cluster munitions, the President—

(1) certifies that it is vital to protect the security of the United States; and

(2) not later than 30 days after making such certification, submits to the appropriate congressional committees a report, in classified form if necessary, describing in detail—

(A) the steps that will be taken to protect civilians; and

(B) the failure rate of the cluster munitions that will be used and whether such munitions are fitted with self-destruct or self-deactivation devices.

(c) In this section, the term ''appropriate congressional committees'' means—

(1) the Committee on Foreign Relations, the Committee on Armed Services, and the Committee on Appropriations of the Senate; and

(2) the Committee on Foreign Affairs, the Committee on Armed Services, and the Committee on Appropriations of the House of Representatives.

SA 2571. Mr. BYRD submitted an amendment intended to be proposed by him to the bill H.R. 3326, making appropriations for the Department of Defense for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. (a) REPORT ON USE OF LIVE PRIMATES IN TRAINING RELATING TO CHEMICAL AND BIOLOGICAL AGENTS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report setting forth a detailed description of the requirements for the use by the Department of Defense of live primates at the United States Army Medical Research Institute of Chemical Defense, and elsewhere, to demonstrate the effects of chemical or biological agents or chemical (such as physostigmine) or biological agent simulants in training programs.

(b) ELEMENTS.—The report required by subsection (a) shall include, at a minimum, the following:

(1) The number of live primates used in the training described in subsection (a).

(2) The average lifespan of primates from the point of introduction into such training programs.

(3) An explanation why the use of primates in such training is more advantageous and realistic than the use of human simulators or other alternatives.

(4) An estimate of the cost of converting from the use of primates to human simulators in such training.

SA 2572. Mr. DODD (for himself and Mr. CHAMBLISS) submitted an amendment intended to be proposed by him to the bill H.R. 3326, making appropriations for the Department of Defense for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 245, between lines 8 and 9, insert the following:

SEC. 8104. TEMPORARY AUTHORITY FOR MONTHLY SPECIAL PAY FOR MEMBERS OF THE ARMED FORCES SUBJECT TO CONTINUING ACTIVE DUTY OR SERVICE UNDER STOP-LOSS AUTHORITIES.

(a) SPECIAL PAY AUTHORIZED.—The Secretary of the military department concerned may pay monthly special pay to any member of the Armed Forces described in subsection (b) for any month or portion of a month in which the member serves on active duty in the Armed Forces or active status in a reserve component of the Armed Forces, including time served performing pre-deployment and re-integration duty regardless of whether or not such duty was performed by such a member on active duty in the Armed Forces, or has the member's eligibility for retirement from the Armed Forces suspended, as described in that subsection.

(b) COVERED MEMBERS.—A member of the Armed Forces described in this subsection is any member of the Army, Navy, Air Force, or Marine Corps (including a member of a reserve component thereof) who, at any time during the period beginning on September 11, 2001, and ending on June 30, 2011, serves on active duty in the Armed Forces or active status in a reserve component of the Armed Forces, including time served performing pre-deployment and re-integration duty regardless of whether or not such duty was performed by such a member on active duty in the Armed Forces, while the member's enlistment or period of obligated service is extended, or has the member's eligibility for retirement suspended, pursuant to section 123 or 12305 of title 10, United States Code, or any other provision of law (commonly referred to as a ''stop-loss authority'') authorizing the President to extend an enlistment or period of obligated service, or suspend eligibility for retirement, of a member of the uniformed services in time of war or of national emergency declared by Congress or the President.

(c) AMOUNT.—The amount of monthly special pay payable to a member under this section for a month may not exceed $500.

(d) CONSTRUCTION WITH OTHER PAYS.—Monthly special pay payable to a member under this section is in addition to any other amounts payable to the member by law.

(e) FUNDING.—

(1) IN GENERAL.—In addition to the amounts appropriated or otherwise made available elsewhere in this Act, $29,000,000 is hereby appropriated to the Secretary of Defense to carry out this section. Such amount shall be made available to the Secretaries of the military departments only to provide special pay during fiscal year 2010 to members of the Armed Forces described in subsection (b) as provided in this section.

(2) OFFSET.—The amount appropriated or otherwise made available by title II under the heading ''OPERATION AND MAINTENANCE, ARMY'' is hereby reduced by $29,000,000.

SA 2573. Mr. CARDIN submitted an amendment intended to be proposed by him to the bill H.R. 3326, making appropriations for the Department of Defense for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. (a) ADDITIONAL AMOUNT FOR RDTE, DEFENSE-WIDE, FOR INTEGRATED CHEMICAL AND BIOLOGICAL DETECTION SYSTEM.—The amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, DEFENSE-WIDE'' is hereby increased by $3,600,000, with

the amount of the increase to be available for the Integrated Chemical and Biological Detection System.

(b) OFFSET.—The amount appropriated by title II under the heading ''OPERATION AND MAINTENANCE, ARMY'' is hereby decreased by $3,600,000, with the amount of the decrease to be allocated to amounts available for Installation Processing Node–Phase IIa.

SA 2574. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 3326, making appropriations for the Department of Defense for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. The amount appropriated by title III under the heading ''AIRCRAFT PROCUREMENT, AIR FORCE'' is hereby reduced by $2,500,000,000, the amount equal to the amount by which the amount available under that heading for the procurement of C–17 aircraft exceeds the amount requested by the President in the budget for the Department of Defense for fiscal year 2010 for the procurement of such aircraft, with the amount of the reduction to be allocated to amounts otherwise available for the procurement of such aircraft.

SA 2575. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 3326, making appropriations for the Department of Defense for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. (a) TESTIMONY BEFORE CONGRESS ON MEETING UNITED STATES OBJECTIVES ON AFGHANISTAN AND PAKISTAN.—The officials specified subsection (b) shall each be made available, by not later than November 15, 2009, to testify in open and closed sessions before the relevant committees of Congress regarding recommendations for additional forces and resources required to achieve the objectives of United States policy with respect to Afghanistan and Pakistan stated pursuant to section 1117(a) of the Supplemental Appropriations Act, 2009 (Public Law 111–32; 123 Stat. 1907).

(b) OFFICIALS.—The officials specified in this subsection are the following:

(1) The Commander of the United States Central Command.

(2) The Commander of the United States European Command and Supreme Allied Command, Europe.

(3) The Commander of United States Forces–Afghanistan.

(4) The United States Ambassador to Afghanistan

NOTICES OF HEARINGS–

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 previously announced for Thursday, October 1, 2009, at 9:45 p.m., is postponed until a later date.

The purpose of the hearing was to receive testimony on Energy and Related Economic Effects of Global Climate Change Legislation.

For further information, please contact Jonathan Black at (202) 224–6722 or Gina Weinstock at (202) 224–5684.

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing previously announced before the Subcommittee on Public Lands and Forests on Thursday, October 1, 2009, at 2:30 p.m., is postponed until a later date.

The purpose of the hearing was to receive testimony on managing Federal forests in response to climate change, including for natural resource adaptation and carbon sequestration.

For further information, please contact Scott Miller at (202) 224–5488 or Allison Seyferth at (202) 224–4905.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. INOUYE. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on September 29, 2009, at 2 p.m. to conduct a hearing entitled ''Strengthening and Streamlining Prudential Bank Supervision.''

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

COMMITTEE ON FINANCE

Mr. INOUYE. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on September 29, 2009, at 10 a.m., in room 216 of the Hart Senate Office Building.

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. INOUYE. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on September 29, 2009.

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

COMMITTEE ON THE JUDICIARY

Mr INOUYE. Mr. President, I ask unanimous consent that the Committee on the Judiciary, Subcommittee on Crime and Drugs, be authorized to meet during the session of the Senate, on September 29, 2009, at 2:30 p.m., in room SD–226 of the Dirksen Senate Office Building, to conduct a hearing entitled ''Body Building Products and Hidden Steroids: Enforcement Barriers.''

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

AD HOC SUBCOMMITTEE ON CONTRACTING OVERSIGHT

Mr. INOUYE. Mr. President, I ask unanimous consent that the Ad Hoc Subcommittee on Contracting Oversight of the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on September 29, 2009, at 10 a.m. to conduct a hearing entitled, ''Improving Transparency and Accessibility of Federal Contracting Databases.''

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

SUBCOMMITTEE ON CHILDREN'S HEALTH

Mr. INOUYE. Mr. President, I ask unanimous consent that the Subcommittee on Children's Health of the Committee on Environment and Public Works be authorized to meet during the session of the Senate on September 29, 2009, at 9:30 a.m. in Dirksen room 406 to hold a hearing entitled, ''Promoting and Improving Children's Health Protections.''

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

PRIVILEGES OF THE FLOOR

Mr. BOND. Mr. President, I ask unanimous consent that my military fellow, LTC John Moreth, be granted floor privileges for the duration of the consideration of H.R. 3326 on the floor.

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

Mr. INOUYE. Mr. President, I ask unanimous consent that a military fellow in the office of Senator CHRISTOPHER DODD, CPT Lindsay George, be granted floor privileges for the consideration of H.R. 3326, the Defense appropriations bill.

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to executive session to consider Calendar Nos. 459, 460, 461, that the nominations be confirmed en bloc, the motions to reconsider be laid on the table en bloc, that no further motions be in order and any statements relating to the nominations be printed in the RECORD as if read; provided further that the President be immediately notified of the Senate's action and the Senate return to legislative session.

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

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF JUSTICE

Jenny A. Durkan, of Washington, to be United States Attorney for the Western District of Washington for the term of four years.

Florence T. Nakakuni, of Hawaii, to be United States Attorney for the District of Hawaii for the term of four years.

Deborah K.R. Gilg, of Nebraska, to be United States Attorney for the District of Nebraska for the term of four years.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate returns to legislative session.

UNANIMOUS CONSENT AGREEMENT—CONFERENCE REPORT TO ACCOMPANY H.R. 2918

Mr. REID. Mr. President, I ask unanimous consent that on Wednesday, September 30, following a period of morning business, the Senate proceed to consider the conference report to accompany H.R. 2918, the Legislative Branch appropriations; that all debate time until 4:30 be equally divided and controlled between Senators NELSON of Nebraska and Senator MURKOWSKI or their designees; that if points of order are raised, any vote on the motions to waive occur beginning at 4:30 p.m. tomorrow and that no amendments be in order to the motions; I further ask consent that following the disposition of points of order, and if the motions to waive are successful, the Senate then proceed to the adoption of the conference report immediately, with 2 minutes of debate, equally divided, prior to each vote.

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

APPOINTMENT OF CONFEREES—H.R. 2647

Mr. REID. Mr. President, with respect to the conferees on the Defense authorization measure, I ask unanimous consent that Senators KIRK and LEMIEUX be added to replace the late Senator Kennedy and recently retired Senator Martinez.

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

EXTENDING BY ONE YEAR THE OPERATION OF RADIO FREE ASIA

REAUTHORIZING THE UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY

Mr. REID. I ask unanimous consent the Foreign Relations Committee be discharged from further consideration of H.R. 3593 and H.R. 2131 en bloc, and the Senate proceed to their immediate consideration en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bills by title.

The legislative clerk read as follows:

A bill (H.R. 3593) to amend the United States International Broadcasting Act of 1994 to extend by one year the operation of Radio Free Asia, and for other purposes.

A bill (H.R. 2131) to amend the Foreign Affairs Reform and Restructuring Act of 1998 to reauthorize the United States Advisory Commission on Public Diplomacy

There being no objection, the Senate proceeded to consider the bills.

Mr. REID. Mr. President, I ask unanimous consent the bills be read a third time and passed en bloc, the motions to reconsider be laid on the table en bloc, with no intervening action or debate, and any statements be printed in the RECORD.

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

The bill (H.R. 3593) was ordered to a third reading, was read the third time, and passed.

The bill (H.R. 2131) was ordered to a third reading, was read the third time, and passed.

CYBERSECURITY AWARENESS MONTH

Mr. REID. Mr. President, I ask unanimous consent that the Commerce, Science, and Transportation Committees be discharged from further consideration of S. Res. 285, and that the Senate proceed to its consideration.

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

The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 285) supporting the goals and ideals of national cybersecurity awareness month and raising and enhancing the state of cybersecurity in the United States.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table en bloc; that any statements be printed in the RECORD.

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

The resolution (S. Res. 285) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 285

Whereas the use of the Internet in the United States, to communicate, conduct business, or generate commerce that benefits the overall United States economy, is ubiquitous;

Whereas many people use the Internet in the United States to communicate with family and friends, manage finances and pay bills, access educational opportunities, shop at home, participate in online entertainment and games, and stay informed of news and current events;

Whereas United States small businesses, which employ a significant fraction of the private workforce, increasingly rely on the Internet to manage their businesses, expand their customer reach, and enhance the management of their supply chain;

Whereas nearly all public schools in the United States have Internet access to enhance children's education, with a significant percentage of instructional rooms connected to the Internet to enhance children's education by providing access to educational online content and encouraging self-initiative to discover research resources;

Whereas the number of children who connect to the Internet continues to rise, and teaching children of all ages to become good cyber-citizens through safe, secure, and ethical online behaviors and practices is essential to protect their computer systems and potentially their physical safety;

Whereas the growth and popularity of social networking websites has attracted millions of teenagers, providing access to a range of valuable services, making it all the more important to teach young users how to avoid potential threats like cyber bullies, predators, and identity thieves they may come across while using such services;

Whereas cybersecurity is a critical part of the United States national security and economic security;

Whereas the United States critical infrastructures and economy rely on the secure and reliable operation of information networks to support the United States military, civilian government, energy, telecommunications, financial services, transportation, health care, and emergency response systems;

Whereas Internet users and information infrastructure owners and operators face an increasing threat of malicious crime and fraud attacks through viruses, worms, Trojans, and unwanted programs such as spyware, adware, hacking tools, and password stealers, that are frequent and fast in propagation, are costly to repair, and may disable entire systems;

Whereas millions of records containing personally identifiable information have been lost, stolen, or breached, threatening the security and financial well-being of United States citizens;

Whereas consumers face significant financial and personal privacy losses due to personally identifiable information being more exposed to theft and fraud than ever before;

Whereas national organizations, policymakers, government agencies, private sector companies, nonprofit institutions, schools, academic organizations, consumers, and the media recognize the need to increase awareness of cybersecurity and the need for enhanced cybersecurity in the United States;

Whereas coordination between the numerous Federal agencies involved in cybersecurity efforts is essential to securing the cyber infrastructure of the United States;

Whereas the National Strategy to Secure Cyberspace, published in February 2003, recommends a comprehensive national awareness program to empower all people in the United States, including businesses, the general workforce, and the general population, to secure their own parts of cyberspace;

Whereas the White House's Cyberspace Policy Review, published in May 2009, recommends that the government initiate a national public awareness and education campaign to promote cybersecurity; and

Whereas the National Cyber Security Alliance, the Multi-State Information Sharing and Analysis Center, the Department of Homeland Security, and other organizations working to improve cybersecurity in the United States have designated October 2009 as the sixth annual National Cybersecurity Awareness Month which serves to educate the people of the United States about the importance of cybersecurity: Now, therefore, be it

Resolved, That the Senate—

(1) supports the goals and ideals of National Cybersecurity Awareness Month, as designated by the National Cyber Security Alliance, the Multi-State Information Sharing and Analysis Center, the Department of Homeland Security, and other organizations working to improve cybersecurity in the United States;

(2) continues to work with Federal agencies, businesses, educational institutions, and other organizations to enhance the state of cybersecurity in the United States; and

(3) congratulates the National Cyber Security Alliance, the Multi-State Information Sharing and Analysis Center, the Department of Homeland Security, and other organizations working to improve cybersecurity in the United States on the sixth anniversary of the National Cybersecurity Month during October 2009.

RELATIVE TO THE DEATH OF FORMER SENATOR HENRY L. BELLMON

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to S. Res. 293.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 293) relative to the death of Henry Louis Bellmon, former United States Senator for the State of Oklahoma.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. I ask unanimous consent the resolution and preamble be agreed to en bloc, and the motions to reconsider be laid upon the table en bloc.

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

The resolution (S. Res. 293) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 293

Whereas Henry Bellmon served as a United States Marine from 1942–1946, where he served as a platoon tank commander in the Pacific theater, and was awarded the Legion of Merit for his service in Saipan and the Silver Star for bravery in action on Iwo Jima;

Whereas Henry Bellmon served as a Major in the Marine Corps Reserve until 1954;

Whereas Henry Bellmon served two nonconsecutive terms as governor of the State of Oklahoma from 1963–1967, when he was elected as the state's first Republican governor, and from 1987–1991; and

Whereas Henry Bellmon served the people of Oklahoma with distinction for 12 years in the United States Senate from 1969–1981;

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable Henry Bellmon, former member of the United States Senate.

Resolved, That the Secretary of the Senate communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns today, it stand adjourned as a further mark of respect to the memory of the Honorable Henry Bellmon.

ORDERS FOR WEDNESDAY, SEPTEMBER 30, 2009

Mr. REID. I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m. tomorrow, Wednesday, September 30; 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 then proceed to a period of morning business for 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 Republicans controlling the first half and the majority controlling the final half; that following morning business, the Senate proceed to the consideration of the conference report to accompany H.R. 2918, the Legislative Branch Appropriations Act, as provided under the previous order; finally I ask that the Senate recess from 12:30 to 2:15 p.m. to allow for the weekly caucus luncheons.

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

PROGRAM

Mr. REID. Mr. President, there will be at least three votes around 4:30 tomorrow afternoon.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. REID. If there is no further business to come before the Senate, I ask unanimous consent that the Senate adjourn under the provisions of S. Res 293 as a mark of further respect to former Senator Henry Bellmon of Oklahoma.

There being no objection, the Senate, at 6:50 p.m., adjourned until Wednesday, September 30, 2009, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate:

DEPARTMENT OF DEFENSE

GLADYS COMMONS, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE NAVY, VICE DOUGLAS A. BROOK, RESIGNED.

DEPARTMENT OF AGRICULTURE

HARRIS D. SHERMAN, OF COLORADO, TO BE UNDER SECRETARY OF AGRICULTURE FOR NATURAL RESOURCES AND ENVIRONMENT, VICE MARK EDWARD REY , RESIGNED.

HARRIS D. SHERMAN, OF COLORADO, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMODITY CREDIT CORPORATION, VICE MARK EDWARD REY.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

STEVEN L. JACQUES, OF KANSAS, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT, VICE CATHY M. MACFARLANE.

DEPARTMENT OF HOMELAND SECURITY

ALAN D. BERSIN, OF CALIFORNIA, TO BE COMMISSIONER OF CUSTOMS, DEPARTMENT OF HOMELAND SECURITY, VICE W. RALPH BASHAM.

DEPARTMENT OF STATE

MICHAEL C. POLT, OF TENNESSEE, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ESTONIA.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

ADELE LOGAN ALEXANDER, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2014, VICE MARGUERITE SULLIVAN, TERM EXPIRED.

EXECUTIVE OFFICE OF THE PRESIDENT

VICTORIA ANGELICA ESPINEL, OF THE DISTRICT OF COLUMBIA, TO BE INTELLECTUAL PROPERTY ENFORCEMENT COORDINATOR, EXECUTIVE OFFICE OF THE PRESIDENT. (NEW POSITION)

CONFIRMATIONS

Executive nominations confirmed by the Senate, September 29, 2009:

THE JUDICIARY

JEFFREY L. VIKEN, OF SOUTH DAKOTA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF SOUTH DAKOTA.

DEPARTMENT OF JUSTICE

JENNY A. DURKAN, OF WASHINGTON, TO BE UNITED STATES ATTORNEY FOR THE WESTERN DISTRICT OF WASHINGTON FOR THE TERM OF FOUR YEARS.

FLORENCE T. NAKAKUNI, OF HAWAII, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF HAWAII FOR THE TERM OF FOUR YEARS.

DEBORAH K. R. GILG, OF NEBRASKA, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF NEBRASKA FOR THE TERM OF FOUR YEARS.

WITHDRAWALS

Executive message transmitted by the President to the Senate on September 29, 2009 withdrawing from further Senate consideration the following nominations:

HARRIS D. SHERMAN, OF CALIFORNIA, TO BE UNDER SECRETARY OF AGRICULTURE FOR NATURAL RESOURCES AND ENVIRONMENT, VICE MARK EDWARD REY, RESIGNED, WHICH WAS SENT TO THE SENATE ON SEPTEMBER 10, 2009.

HARRIS D. SHERMAN, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMODITY CREDIT CORPORATION, VICE MARK EDWARD REY, WHICH WAS SENT TO THE SENATE ON SEPTEMBER 10, 2009.