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House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, September 28, 2010, at 10:30 a.m.

Senate

MONDAY, SEPTEMBER 27, 2010

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

PRAYER

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

Let us pray.

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

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

We pray in Your powerful Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable ROLAND W. BURRIS led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. INOUYE).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 27, 2010.

To the Senate:

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

DANIEL K. INOUYE,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Mr. President, following any leader remarks, there will be a period of morning business until 3 p.m. today. Senators, during that period of time, will be allowed to speak for up to 10 minutes each. At 3, the Senate will resume consideration of the motion to proceed to the Creating American Jobs and Ending Offshoring Act.

ORDER OF PROCEDURE

I ask unanimous consent that at 4 p.m., until 11 p.m. today, the Senate begin 30 minute alternating blocks of debate on the motion to proceed to S. 3816, with the majority controlling the first 30 minutes, which will begin at 3 p.m. today.

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

Mr. REID. Mr. President, I announced last week that we would have a live quorum at about 7 p.m. this evening. I am hopeful that will be the last one we will need, but we will see how the debate proceeds.

CREATING JOBS

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

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

Every penny of that help is paid for, and it will not add a single dime to the deficit. I spoke to the Administrator of the Small Business Administration on Thursday or Friday—I don't know the exact day. She indicated to me that there were 1,000 applications for small business loans that will be completed within hours of signing that bill. The resources have simply not been there for her to do the work that is necessary. One thousand small businesses will be able to go forward on programs they have, programs dealing with retail sales, wholesaling. There will be businesses that will be exporters, importers, and any variation of small

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

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businesses that you can imagine—restaurants. This will create many jobs immediately. So I was happy when I heard that from her. I knew that was going to be the case, but I wanted to hear it from her.

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

Right now, our Tax Code actually rewards corporations for offshoring jobs. It is hard to comprehend that, but it is true. It helps them pay the costs of closing their plants and offers them tax breaks if they move production to other countries. The current system even encourages companies to ask their employees to train their foreign replacements. Think about how an American feels about that. That is a slap in the face to hard-working Americans. It is no way to get our economy back on its feet and certainly no way to get Americans back to work.

Our bill rights this wrong, and it is going to help revive our Nation's manufacturing industry. We are giving companies the right kind of tax cut, a payroll tax holiday as a reward for bringing jobs back home. So far, we have seen little to indicate that our friends on the other side of the aisle have any interest in protecting American jobs. Instead, we have seen them fight with great enthusiasm to keep corporate tax loopholes as wide open as possible.

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

Nothing is more important to me, as a Senator, than the work to create jobs in our States.

Will the Chair now announce morning business.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

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

The Senator from Delaware is recognized.

FISCAL AND ECONOMIC CHALLENGES

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

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

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

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

This focus on Federal Government spending is shortsighted and even counterproductive, since it distracts us from the real problem of addressing our weak economic fundamentals.

All too many Americans are painfully aware of the current economic conditions in which we find ourselves. It is clear these conditions would even be worse if not for the Recovery Act. It saved us from another full-blown depression and allowed us to rebuild our economy and add jobs. The nonpartisan Congressional Budget Office concluded that the American Recovery and Reinvestment Act resulted in anywhere between 1.8 million and 4.1 million more jobs.

The CBO also estimated that our gross domestic product was 1.7 percent to 4.2 percent higher in the first quarter of 2010. Other economic indicators show similarly strong results, following the passage of the Recovery Act. After the passage of the Recovery Act, the markets hit bottom, with the Dow 6,547, on March 9, 2009, just about the time we passed the Recovery Act. Since we passed the Recovery Act, the Dow has risen dramatically, climbing above 11,000 early this year, even remaining above 10,000 amidst recent market turmoil, and most recently spurting higher by more than 7 percent in the month of September alone. All that happened after we passed the Recovery Act.

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

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

Fiscal policy, whether through direct government spending or through tax or other incentives, is the one lever we have to spur growth. As Olivier Blanchard recently stated: ''If fiscal stimulus helps reduce unemployment and thus avoid an increase in structural unemployment, it may actually largely pay for itself and lead to only a small increase in debt relative to the alternative of doing nothing.''

Conversely, policies aimed at an immediate spending cut and a tightening of the proverbial fiscal belt could actually harm our economy. Therefore, it is critical we extend middle-class tax cuts and expand, not contract, stimulus measures.

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

Of course, our need to promote economic growth in the short term does

not make the need to address long-term fiscal problems any less urgent.

Former OMB Director Peter Orszag said in late July:

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

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

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

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

The truth is that clean energy is the future of the global economy, and we should be investing in it today. Since 2005, global investment in clean energy has exploded, growing by 230 percent. But the United States is not keeping up with the global clean energy revolution. Last year, 10 G20 countries invested a higher percentage of gross domestic product in clean energy technology than the United States did. These investments created many jobs—over 1 million jobs in China alone. This growth is a direct result of policy decisions that commit to a clean energy future. The United States has failed to make a significant commitment to clean energy. Over the recess, Ernst & Young announced that for the first time, China had overtaken the United States as the most attractive country for renewable energy projects.

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

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

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

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

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

I yield the floor.

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

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

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

ENDING OFFSHORING ACT

Mr. KYL. I wish to talk about the so-called Ending Offshoring Act, a bill that the Wall Street Journal suggested this morning should be called ''The Send Jobs Overseas Act.''

I ask unanimous consent to have that article printed at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. KYL. Mr. President, this bill provides a temporary payroll tax holiday for multinational U.S. employers who hire a new U.S. worker. But not just any worker. To be eligible, the business must prove that the employee is replacing an employee who had been performing a similar job abroad. The bill, which is not fully offset, proposes to partially pay for this tax holiday for multinational corporations with new tax hikes on multinational corporations—tax hikes that could undermine job creation in America.

How would the tax increases be applied? The bill would disallow tax deductions associated with expanding operations overseas and would limit tax deferral of income U.S. multinational companies earn abroad by selling products in the United States.

Currently, when a foreign subsidiary of a U.S. parent company earns such income, it is not taxed by the United States until it is sent back to the U.S. parent company. Even though most foreign countries only tax income earned within their borders, the U.S. taxes income earned anywhere in the world by U.S. citizens and companies. The deferral policy aims to keep U.S. companies competitive with their foreign counterparts, since we also have the second highest corporate tax rate in the world. So deferral is not a ''tax benefit,'' as some of the bill's proponents claim.

This bill wrongly assumes that all foreign expansion stems from ''greed'' and that foreign expansion only hurts American workers. I will explain why that's simply not the case and why this bill could, in fact, hinder job creation in America and actually send American jobs overseas permanently.

The first point I want to illustrate is how limiting tax deferral could hurt American jobs. Limiting deferral would subject U.S. multinational companies to higher taxes, cutting into their profits and giving foreign competitors a huge advantage in the global marketplace. We have to keep in mind: American companies with overseas operations support and create U.S. jobs.

A new paper from the McKinsey Global Institute shows that America's multinational companies make huge contributions to our economy: They account for 19 percent of all private-sector jobs in the United States, 25 percent of all private wages, 48 percent of total export goods, and 74 percent of nonpublic research and development spending.

In fact, Johnson & Johnson estimates that about one in five U.S. employees hold jobs that support their international operations.

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

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

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

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

The advisers for the McKinsey report provided the jobs statistics that show the correlation between companies' expansion abroad and employment here at home: From 1988 to 2007, employment in foreign affiliates rose to 10 million from 4.8 million. During that same period, employment in U.S. parent companies rose to 22 million from 17.7 million. The reason is, as the Pepsi example shows, that much of the expansion abroad by U.S. multinationals has complemented, rather than replaced, U.S. operations.

In 2008, a Washington Post editorial highlighted a study that made this same point. The study looked at U.S. manufacturers that expanded abroad between 1982 and 2004 and, as the Post wrote, ''found that they tended to grow domestically as well, hiring more U.S. employees, paying them more and spending more on research.''

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

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

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

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

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

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

According to the Department of Commerce, only 10 percent of foreign subsidiary sales are into the United States. So 90 percent of the subsidiaries' sales are in foreign markets. This statistic shows that the vast majority of companies are not moving manufacturing overseas only to sell goods back to the United States at a savings, but rather to cater to their customers.

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

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

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

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

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

> The U.S. already has one of the most punitive corporate tax regimes in the world and this tax increase [proposed in the legislation before us] would make that competitive disadvantage much worse, accelerating the very outsourcing of jobs that Mr. Obama says he wants to reverse.

Paul Volcker, the handpicked individual of the White House on the tax reform panel, whose report recently was received by the President, said in the report:

> The growing gap between the U.S. corporate tax rate and the corporate tax rates of most other countries generates incentives for U.S. corporations to shift their income and operations to foreign locations with lower corporate tax rates to avoid U.S. rates.

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

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

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

> CEO Steve Ballmer has warned that if the President's plan is enacted, Microsoft would move facilities and jobs out of the U.S.

Thus proving the point. In fact, the chairman of the Senate Finance Committee, my colleague MAX BAUCUS, said in Congress Daily:

> I think it puts the United States at a competitive disadvantage. That's why I'm concerned.

A concluding comment from the editorial:

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

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

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

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

EXHIBIT 1

[From the Wall Street Journal, Sept. 26, 2010]

THE SEND JOBS OVERSEAS ACT

Democrats may be dodging a vote on the Bush-era tax cuts, but that doesn't mean they don't want to raise taxes before November. Witness this week's showdown in Congress over increasing the tax on the profits of American companies with foreign subsidiaries to punish firms that relocate plants

overseas. How much more harm can this crowd do before it's run out of town?

Like so many others, this tax increase is being promoted by President Obama, who declared last week that ''for years, our tax code has actually given billions of dollars in tax breaks that encourage companies to create jobs and profits in other countries. I want to change that.''

Democrats around the country are making this issue their number one campaign theme, since they can't run on health care, stimulus or anything else they've passed into law. Think about this: One of the two major parties in the world's supposedly leading economy is trying to hold on to its majority by running against foreign investment and the free flow of capital. This is banana republic behavior.

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

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

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

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

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

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

Mr. Obama believes that by increasing the U.S. tax on overseas profits, some companies may be less likely to invest abroad in the first place. In some cases that will be true. But the more frequent result will be that U.S. companies lose business to foreign rivals, U.S. firms are bought by tax-advantaged foreign companies, and some U.S. multinational firms move their headquarters overseas. They can move to Ireland (where the corporate tax rate is 12.5%) or Germany or Taiwan, or dozens of countries with less hostile tax climates.

We know this will happen because we've seen it before. The 1986 tax reform abolished deferral of foreign shipping income earned by U.S. controlled firms. No other country taxed foreign shipping income. Did this lead to more business for U.S. shippers? Precisely the opposite.

According to a 2007 study in Tax Notes by former Joint Committee on Taxation director Ken Kies, ''Over the 1985–2004 period, the U.S.-flag fleet declined from 737 to 412 vessels, causing U.S.-flag shipping capacity, measured in deadweight tonnage, to drop by more than 50%.''

Mr. Kies explains that ''much of the decline was attributable to the acquisition of U.S.-based shipping companies by foreign competitors not subject to tax on their shipping income.'' Mr. Kies concludes that the experiment was ''a real disaster for U.S. shipping'' and that the debate over whether U.S. companies can compete in a global market facing much higher tax rates than their competitors was answered ''with a vengeance.''

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

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

The ACTING PRESIDENT pro tempore. The Senator from Nebraska.

HONORING OUR ARMED FORCES

STAFF SERGEANT MICHAEL BOCK

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

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

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

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

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

From childhood, he had wanted to serve in the military.

At an age when many young Americans are not yet tackling adult responsibilities, Michael was ready to offer his service and sacrifice for our Nation.

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

The Marine Corps became a family for Staff SergeantBock.

In fact, he convinced his brother David to join and serve.

Over time Michael's family grew.

His marriage to Tiffany was followed by the birth of his son, Alexander.

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

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

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

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

Much of that credit is due to heroes like Staff SergeantBock.

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

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

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

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

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

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

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

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

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

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

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

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Delaware.

Mr. KAUFMAN. I ask unanimous consent to speak as in morning business for 15 minutes.

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

AFGHANISTAN

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

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

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

Since assuming office, I have traveled to Afghanistan three times in March and September 2009, and April of this year. My trips have been eye-opening experiences, and I have made the following observations. First, our military is performing at the highest level—a 10 out of 10. The bravery and commitment of our men and women in uniform is both admirable and inspiring. Moreover, from the top down, the military has embraced counterinsurgency strategy, which is the best way to meet current and future security challenges. This is why I strongly support Secretary Gates' efforts to rebalance the defense budget to better prepare for the non-conventional threats of the future, drawing on the lessons learned from Iraq and Afghanistan.

My second observation is that counterinsurgency strategy in Afghanistan requires far more than the military. It requires a strong civilian capacity, indigenous security forces, and governance to meet the requirements necessary for progress. First, the military must shape the strategy. Second, security forces must clear the area of insurgents. Third, they must hold the area. And fourth, civilians, in partnership with the local and national government, must build through economic development. In Afghanistan, we are working toward a fifth stage of transferring responsibility to the Afghans by July 2011.

Last year at this time, I gave a speech detailing the requirements necessary for waging an effective counterinsurgency strategy in Afghanistan, including sufficient numbers of Afghan National Security Forces, or ANSF; a ''civilian surge'' strategy; increased levels of cooperation with Pakistan; and building Afghan government capacity through the elimination of corruption. In the past year, there has been progress in some of these areas, but significant challenges still remain.

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

By comparison, the current level of Iraqi Security Forces is 600,000, which seemed like a lofty goal just a few years ago. Increasing the size of the ANSF is possible, but training an effective Afghan army and police will continue to require great patience, determination, and leadership.

Remember, Iraq and Afghanistan are about the same size and need 600,000 troops for our counterinsurgency. We have less than 300,000 now, security forces, troops, police, and our troops.

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

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

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

In addition, an increased number of Afghan civil servants are required for partnership with U.S. civilians, especially as we look toward the build and transfer stages of the process. The establishment of the Afghan Civil Service Institute, which trains Afghan bureaucrats, is a step in the right direction. But examples such as Marja demonstrate that ''government in a box'' cannot be installed without Afghan partners who can institute rule of law and provide credible government services. We must avoid situations like in Marja, where we opened the so-called government in a box and there was little government.

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

More than any other factor, however, corruption at every level of the Afghan Government and distrust between the U.S. and President Karzai are undermining our chances for success. This is the elephant in the room, which cannot

be ignored. We cannot afford to turn a blind eye to corruption, or deal with it only at the local level. Rule of law must be instituted from the top, and we will not succeed if corrupt officials escape justice.

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

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

Corruption in Afghanistan is a continuum, and we must address the problem at both ends of the spectrum. It is a fallacy to think we can delineate a clear line between corruption at the highest level and the local level, or that we can address this issue without dealing with President Karzai. National and subnational incidents are of equal importance and must be confronted at the same time if we are to be successful.

In the midst of the debate about the best way to tackle corruption, concerns have been raised about Afghan sovereignty. Fighting corruption and protecting Afghan sovereignty are not mutually exclusive, and combating corruption does not necessarily impede on Afghan sovereignty.

As someone once said, we cannot want to win this more than the Afghans want to win it themselves. To the contrary, the two most significant bodies for investigations—the Major Crimes Task Force and the Special Investigative Unit—are housed in the Afghan Interior Ministry, and they operate with only minimal U.S. involvement apart from advising.

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

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

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

That said, let me be clear on two critically important points. First, we must remain dedicated to a top-to-bottom review of the entire Afghanistan campaign this December. Anything less would be a disingenuous attempt to sidestep the hard questions that linger about this exceedingly difficult foreign policy issue. Second, and most important, the December review must assess whether the Karzai government is genuinely committed to detaining and prosecuting corrupt officials who are brought before the courts, regardless of their family and political connections. Additional findings to the contrary gravely threaten our prospects for long-term success.

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

This is what defines, more than anything else, our long-term success. And we should not continue—I cannot emphasize this enough—we should not continue to put our brave young men and women in harm's way unless we are pursuing a strategy that we believe has a reasonable chance of success.

This is the litmus test, and we must confront it head-on in December. As stewards of America's treasure, both in terms of resources and American servicemembers' lives, we owe the American people and our distinguished fighting force nothing less. And the American people deserve no less.

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

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

The legislative clerk proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

CREATING AMERICAN JOBS AND ENDING OFFSHORING ACT OF 2010—MOTION TO PROCEED

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the motion to proceed to S. 3816 which the clerk will report.

The legislative clerk read as follows:

Motion to proceed to the consideration of Calendar No. 578, S. 3816, a bill to amend the Internal Revenue Code of 1986 to create American jobs and to prevent the offshoring of such jobs overseas.

Mr. GRASSLEY. Mr. President, before I start to speak, it is my understanding I have 30 minutes for our side and I ask unanimous consent that Senator DORGAN be recognized immediately after my time.

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

Mr. GRASSLEY. Mr. President, I wish to tell my colleagues why I think the bill before us, S. 3816, is not a good approach. This bill is being sold as somehow having the potential to create American jobs, but it would likely have the exact opposite effect. It would lead to a net decrease in American jobs. For that reason, I encourage my colleagues to vote against this bill.

The bill has three key aspects: a payroll tax holiday for employers hiring U.S. workers to replace foreign workers; a denial of business deduction for any costs associated with moving operations offshore; and lastly, ending deferral for income of foreign subsidiaries for importing goods into the United States. This last provision, according to my colleagues on the other side of the aisle, is the principal issue of the three, and from that standpoint, in my opposition, I agree. It certainly is the most dangerous, so that is the one I wish to address in detail.

To understand this partial repeal of deferral, it is best to consider the topic of deferral more generally and then we can consider this particular idea in context.

The term ''deferral'' refers to how U.S. corporations pay U.S. income taxes on foreign earnings of its foreign subsidiaries, only when those earnings are repatriated to the United States. That is, the U.S. tax is deferred until the earnings are paid by means of dividend back to the U.S. parent corporation. Deferral is not a new policy.

Rather, it has been a feature of the tax law since 1918.

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

In short, the compromise during the Kennedy era was this: For passive income, deferral was repealed. For active income, deferral was still allowed. That compromise is embodied in subpart (f) of the Internal Revenue Code. That compromise was hammered out in 1962 and, with slight tweaks at the margin, that compromise has stayed in place for the last 48 years.

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

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

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

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

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

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

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

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

Perhaps the bill's sponsors will admit that the bill has nothing to do with curbing U.S. tax avoidance. Perhaps they will say that it instead has to do with preserving and creating U.S. jobs. But if that is their position, that cannot be right. In some limited circumstances, perhaps it would increase employment in the United States, although probably mostly for tax lawyers than anybody else. But whatever the case, the net effect would be to decrease employment in the United States.

Allow me to explain why the net effect of the bill would be to decrease U.S. employment.

First of all, if a U.S. parent company has a foreign subsidiary, then this creates managerial headquarters jobs in the United States that would otherwise not be here. The bill before us might encourage American companies to simply sell off their foreign subsidiaries. This would, in turn, mean laying off employees in management positions at the American headquarters.

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

In the words of the late Senator Moynihan, who preceded me and Senator BAUCUS as chairman of the Senate Finance Committee—he spoke in opposition to this proposal 14 years ago, so this issue has been around this body for a period of time. He said this: ''Investment abroad that is not tax driven is good for the United States.''

Senator BAUCUS's concern that this would put the United States at a competitive disadvantage is exactly right. I don't have the exact quote of Senator BAUCUS, but it was in Congress Daily

recently. I am sorry I don't have that quote for my colleagues.

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

As President Clinton's international tax counsel, Joe Guttentag, explained in 1995, during the Clinton administration:

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

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

Finally, I wish to briefly comment on one other aspect of the bill—the payroll tax holiday. This, too, has provisions that will be difficult to administer. For example, do foreign workers actually have to be fired to have their employer get the payroll tax holiday in the United States or do they need only to be reassigned job roles?

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

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

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

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

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

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

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

During the 3½ years of Democratic control, my colleagues have had an opportunity to address the death tax.

More pointedly, the Democratic leadership had a duty to provide certainty in the law as it relates to the estate tax.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Yet the Democratic leadership stymied the practice of good government.

To this day, the Democratic leadership continues to stymie efforts to provide certainty in the law.

So why is the estate tax being held hostage?

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

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

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

What do I mean?

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

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

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

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

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

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

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

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

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

But $233 billion is nothing to sneeze at.

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

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

I have some news for my colleagues. A large number of Americans who

would be impacted by a 55-percent tax rate and a $1 million unified credit exemption are not ''rich.''

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

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

Recently, I received an email from Landi McFarland, who is a sixth generation Iowa farmer.

This is what Landi had to say about the impact of the estate tax and her ability to continue the family farm:

. . . As a 6th generation Iowa farmer whose family homesteaded land in Union county 154 years ago, I have concerns about current estate tax law. I am 26 years old and have a dream of pursuing a future in agriculture, the same as the generations that have come before me.

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

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

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

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

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

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

Thanks for your help,

—Landi

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

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

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

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

Why is this discussion of escalating farm prices significant?

Because this means that should the estate tax law revert to 2001 law, many farmers are going to be surprised to discover they will be considered ''rich.''

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

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

In 2007, the U.S. Department of Agriculture reported that there were 92,800 farms in Iowa.

In 2007, the average Iowa farm was 331 acres.

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

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

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

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

Let me shift gears and provide my friends with some national statistics.

The Joint Committee on Taxation has told us out of 92,700 estates of people dying in 2011, 49,000 of these estates would be taxable under the 55-percent rate and $1 million exemption. If the law were changed to a 35-percent tax rate and $5 million exemption amount, for example, 3,900 estates would be taxable. That is a ratio of 13 to 1.

For every one estate that would be taxable under a 35-percent and $5 million estate tax regime, a whopping 13 estates would be taxable if the law reverted to a 55-percent rate and $1 million exemption.

Even if the rate were set at 45 percent and an exemption amount of $3.5 million, this ratio is 8 to 1. That is, for every one estate that would be taxed under the 45-percent rate, with the $3.5 million exemption, eight estates would be taxable under the 55-percent rate and $1 million exemption if we do not change the law.

I will conclude this way. Let's now look at farmers who would be affected. Based on the Joint Committee on Taxation in 2011, 3,200 farms would be taxed if the law included a $1 million exemption amount. Compare that to 300 farms that would be taxable if the exemption was $3.5 million.

That means the result of no action will be that 10 times as many family farms will be hit by the death tax. The time for action on the estate tax is now, not a month from now or 3 months from now. We owe it to the farmers and small business owners and their young heirs to give them certainty. We need to give to the tax lawyers and consultants who advise people on their estate planning some certainty.

I yield the floor.

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

Mr. DORGAN. Mr. President, I believe by consent I am to be recognized for 30 minutes.

The PRESIDING OFFICER. The Senator is recognized for 30 minutes.

Mr. DORGAN. Mr. President, we have heard a couple of very spirited defenses this afternoon on behalf of jobs in China, which I pose is a wonderful thing if you live in China and have a job in China. The issue here is what about jobs in our country. What about the people who woke up this morning unemployed in America looking for work who could not find it? Who is standing on this floor speaking for those folks?

I have heard a lot of discussion about support for jobs in China, Mexico, or elsewhere. But who is standing up talking about the jobs at home?

Let me describe what this issue is about, if I may.

I think this issue is something most Americans understand because they have heard it over and over. In recent years, we have seen millions and millions of manufacturing jobs gone from America because the very manufacturing plants that were open in this country to manufacture goods that had a label on it that said made in America are gone from America. They are now in China, they are in Mexico, they are in Thailand, they are in South Korea, and elsewhere. Let me talk about those jobs and why they have left this country.

Listening to my colleagues—and, of course, the Chamber of Commerce, the National Association of Manufacturers, all of the usual suspects who get in the same tub and make the same thumping sounds—one would believe that what has happened is that we have actually increased manufacturing jobs in this country and that moving American jobs overseas does not hurt anybody; it helps our country. Of course, that is just patently untrue.

My colleagues were talking about something called deferral. That is not something people sit around a coffee shop talking about—deferral. It means, in certain cases under this bill, those companies that shut their American manufacturing plant, get rid of all

their workers, and move the manufacturing to China or Mexico, for example—let's take China—actually get a tax break from our country that says if they are on one side of the street and their competitor is on the other side of the street, and they close their plant, fire their workers, scat out of town, go to China, hire people there, manufacture the same product, ship it back here, their country will be generous enough to say: Good for you, we will give you a tax break for doing it. That is what is called a deferral.

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

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

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

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

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

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

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

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

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

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

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

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

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

Let me go through some points. Before I do, let me mention one other thing. One of my colleagues just said: There are some things you cannot make here. So if you make them abroad, we do not want to punish you in our Tax Code from selling them in this country.

They previously used bananas. I want my colleagues to understand, we actually have a banana exemption. We do not actually spell out bananas, but because the specter of fruit was raised the last time this was discussed, we included a banana exemption.

Of course, we do not grow bananas in the United States. If somebody ships them back here, they will not be affected by this amendment either.

There are a lot of points raised that have nothing at all to do with what we are describing in terms of public policy.

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

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

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

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

On the last day at work at the Pennsylvania House Furniture manufacturing company, these craftsmen—nearly 500 craftsmen—as the last piece of furniture came off the line, they turned the cabinet over, and then they all gathered round to sign their name on the bottom of the cabinet. These wonderful American craftsmen signed that cabinet. Somebody has a piece of furniture they are probably not aware has all the names of those workers who were fired as those jobs went to China.

Why did they do that? Because they cared about their jobs and were proud

of their work, but they could not compete with 50-cent-an-hour labor.

Stanley Furniture in Virginia is a furniture company that was started by Tom Stanley, a young dairy farmer in Virginia. He started it in a city that now is named Stanleytown. A couple of months ago, it was decided that Stanleytown was going to have some pretty bad news. Stanleytown was going to find out that these jobs were no longer going to be in Stanleytown. Stanley Furniture, another fine furniture manufacturer, was going to China.

Let me read from the Journal of Commerce of this year:

> Stanley Furniture's decision to close its plant in the small town that bears its name fell like a hammer blow on southern Virginia and resounded across an industry, increasingly now moving overseas. More than 500 workers will lose their jobs this year as the manufacturer shuts down its Stanleytown, VA, plant, where the company has made furniture since 1924.

So it goes—moving jobs overseas. Let me, if I might, go through a couple of others.

I notice the Hershey company—speaking of Pennsylvania—Hershey company's York Peppermint Pattie is that silver pattie with the ''York'' in the middle and the advertisement that says: ''The cool, refreshing taste of mint dipped in dark chocolate will take you miles away''—in this case, of course, to Mexico because Hershey decided it is time to move. So York Peppermint Pattie moves 260 jobs to Monterey, Mexico—part of a longer term job strategy by Hershey, they said. Well, that is a peppermint pattie. America's manufacturing strategy probably doesn't depend on peppermint patties—who knows.

I have previously mentioned a series of American manufacturers, and I have used this one often because they announced with great fanfare some years ago that they were going to leave America altogether. Not another piece of underwear was going to be made by Fruit of the Loom in the United States. The dancing grapes, for all their advertisements, must have been unhappy. Their advertisements were always happy and upbeat, with guys dressed as grapes and such marching in the meadow. They can't have been very happy when Fruit of the Loom said: We are not going to make underwear in America anymore.

Radio Flyer's little red wagon. This was a 100-year-old company in Chicago. All gone. Now made in Mexico.

Here is another company. I have been talking about this one for a long time. Last week, my colleague from Ohio talked about this company—Huffy Bicycles. You can buy them at Walmart and Kmart and Sears. They were made in Ohio—except, no more. No more. All those workers lost their jobs. All those jobs are in China. All those jobs are done by people who make 50 cents an hour, working 7 days a week, 12 to 14 hours a day. Huffy said to the workers in Ohio: You know what, you can't compete, so you are done. On the last day at work, where they parked their cars in the parking lot, those workers who were fired that day left a pair of empty shoes in the places where their cars were parked. It was the only thing they could do to say: You can move our jobs to China, but you can never replace American workers.

So I could go on and on, but I want to describe what so many here in this Chamber wish to ignore. This is a quote from Mr. Paul Craig Roberts, one of the top Treasury officials in the Reagan administration. Here is what he said this year:

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

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

Again, another quote from Mr. Paul Craig Roberts:

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

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

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

The list goes on and on. The question is, What do we do about all of this? My colleagues—too many of them—say: Let's do nothing. Let's act as if nothing is really going on. In fact, let's come in here and say: You know, we made an agreement in 1962 on some deferral tax issue, and let's stick with it.

One of my colleagues earlier today said: You know, we have to worry about American corporations because they pay some of the highest tax rates in the industrial world. Well, that is a little like Penn and Teller talking about fiscal policy, and only one speaks and the other is silent. It is true that our corporate tax rates, I believe second from the top of the OECD countries. But there is another truth. The other truth is that our corporations in America pay an effective tax rate that is right near the bottom. What is the difference? One is a statutory rate—that is what the law says you should pay—and the other is how much you pay, which is right near the bottom. Why? Because we have a punchboard of gimmicks to allow that to happen. I have described a couple: American banks and other companies buying German sewer systems, buying German railcar systems, streetcars, buying German city halls for the purpose of sale-leasebacks so they can avoid paying taxes to the United States. It is pretty unbelievable, when you think about it.

The only reason I have mentioned some of the companies over the years when I have talked about this is to give them full credit for what they are trying to do. They and all their neighbors should understand that they want all the benefits America has to offer, but they don't want to sign up for the responsibilities that exist for Americans, including an American company.

I want our corporations to do well. I want American corporations to be profitable. But I will tell you this: If you have two kinds of corporations, and one decides to stay here and manufacture in our country and the other decides to take the jobs and move to a low-wage, lower tax alternative, I want to be helpful to that corporation that stays here, that hires workers here, that keeps the plant open here and is proud to put a made-in-America label on their product.

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

> Offshoring in search of higher profits is a mistake because it ignores manufacturing's larger purpose in U.S. society.

Here is something else Mr. Robert Smith said, and I compliment him because you will find precious few who will say it.

> It is my belief that every American citizen, not only me, should feel strongly about maintaining one of the most important cultures we have, and that is manufacturing. Now, why is it important? Does anybody think we would have prevailed in the Second World War without the prodigious manufacturing capability of our country? If anybody is interested in that, go read Manchester's ''The Glory and the Dream'' and understand what we did and how we did it in manufacturing war planes and ships and tanks and

trucks. We had the most unbelievable manufacturing capability in the history of humankind.

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

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

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

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

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

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

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

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

Well, the workers of Ohio said: You know what, we just can't live on 50 cents an hour, and we can't work 7 days a week, 12 to 14 hours a day.

The law won't allow U.S. companies to hire kids, so the company said: That is tough luck. You need to understand that it is a new world out there. If you can't compete, you lose.

Well, this is a race to the bottom in terms of standards.

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

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

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

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

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

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

Why wouldn't we step up for our economic interest? China, by the way, right now is ratcheting up a very aggressive automobile industry. You are going to see a lot of Chinese cars on the streets in this country in the years ahead.

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

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

Let me say, as I started, if ever someone wishes to hear the strongest defense possible of sending American jobs to China, listen up because in the next few hours we will hear some more of it. We have already heard some.

They don't say it quite this way: We think it is nice that if China is not competitive, and their government decided they don't need to do certain things that we have done to increase standards and lift the American standards, we think it is OK if American jobs migrate elsewhere because we do not believe we have to long remain a world economic power in manufacturing to really be a world economic power.

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

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

I yield the floor.

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

Mr. DURBIN. Mr. President, let me thank the Senator from North Dakota. He is retiring. We are going to miss him. He has been a powerful voice in the Senate and no more powerful on any issue than on this one, talking about American jobs and how we are giving them away, literally giving them away.

Time and time again Senator BYRON DORGAN has come to the floor to explain that our Tax Code rewards American companies that want to ship production overseas. Is that upside down? As Senator DORGAN has said on the floor, and I completely agree with him, we should reward American companies that keep good-paying jobs in America. That is what our Tax Code should reward. If they will pay a living wage and good benefits to a worker, and stay in the United States of America, we ought to give them every tax break we can give them—help them in every way we can. Instead, it is upside down. We create incentives for them to move jobs overseas.

We are a few weeks away from an election. I wish this election would be a simple referendum on the debate we are having on the floor of the Senate right now. The Senate Republican leader has come to the floor and said we should not be talking about this issue. He wants to talk about something else. Others, representing the largest corporations and businesses in America, say that the position being taken by the Democrats to stop the tax breaks for American companies that ship jobs overseas should be defeated. I wish to take that question to the American voters. You pick the State, you pick the city, you pick the neighborhood. I want to be there. I will take our position and I invite the Republican Senators and the Chamber of Commerce and whatever other groups happen to believe the other point of view for an active debate. Who in the world believes we should be rewarding corporations in our country for shipping jobs overseas?

We know what we are going through here. This recession has cost us millions of American jobs. Under President William Jefferson Clinton, we created 22 million new jobs in America. We had the growth of small business at a pace we had never seen. We had minority ownership, woman ownership of business at a pace we had never seen. We saw the growth of new home construction and new home ownership at a record pace. During the course of that 8-year period of time, we generated a surplus in the Federal Treasury—a surplus. We had not done that for a decade or more.

So came the time when President Clinton was leaving office, handing it over to President George W. Bush. This is what he gave him: a growing economy creating jobs, home ownership and business ownership. He said to President George W. Bush: Here is the state of our economy. We are reducing our national debt because we are generating a surplus, and the entire national debt of America, given from President Clinton to President Bush, was $5 trillion.

President Clinton said to President Bush: In addition to a strong economy that is growing, I also want to tell you I am leaving you a surplus in the Treasury—$120 billion in the next year, more than you need for the expenses of our government. President Clinton said: We have been taking the surplus, incidentally, putting it back into the Social Security trust fund, and that fund will now guarantee every payment with a cost-of-living adjustment through the year 2032. Not a bad gift from President Clinton to President Bush. That was when President George W. Bush took office.

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

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

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

Now come the Republicans. They have announced if they are given control of Congress in the next election, they have an idea of where we should go as a Nation. We should go back to the Bush economic policies. That is what the Republican plan for America is, go back to the Bush economic policies of declaring tax breaks for the wealthiest people in America. Senator MCCONNELL stated proudly on the Sunday talk shows yesterday that he has had the courage to step up and put a bill before Congress of what he thinks we should do as a Nation when it comes to economic policy. He did. It was historic. It was so historic that Senator MCCONNELL suggested a tax program that would nearly double the national debt—nearly double it—during the same period of time: $4 trillion of new debt for America. How does he do it? On the Republican side, by suggesting we continue to give tax breaks to those in the highest income categories in America.

I for one think that is totally irresponsible. In the midst of a recession, let us help working families, middle-income families struggling to pay their bills, struggling to deal with a home mortgage payment where the value of the home may be going down instead of up. Help those families. But for those who are making $1 million a year or more, why in the world would we add to the national debt to give them a $100,000 tax cut a year? Why? It only adds to the national debt.

The Republican theory is, if you give tax cuts to the wealthiest people in America, this economy is going to flourish. I say to the Senators on the other side, it is a theory we tested and it failed. It is the same theory we tested over the last 10 years of Bush tax cuts. If tax cuts for the wealthiest people in America is what we need for our economy, I have one basic question after 10 years: Where are the jobs? Where are the jobs to show for it?

Our approach I think is more reasonable, reasonable in that we would give tax breaks and tax cuts to those working- and middle-income families below $250,000 of income so they can get through this tough economy. I don't care if the economists tell us the

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

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

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

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

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

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

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

Goldman Sachs estimates between 400,000 and 600,000 professional services and information sector jobs have moved overseas in the past few years. That was during a time when these businesses were raking in record profits and jobs were leaving America. Then, when the boom turned into a bust, those wizards of Wall Street, those captains of capitalism, those kings of commerce, those malefactors of great wealth experienced a temporary setback. Profits were down, stocks were down, and so compensation was down on Wall Street, for about 15 minutes.

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

The Recovery Act that we passed last year, with the support of three Republican Senators—only three who would join us in this effort—has at least slowed down the recession and the loss of jobs. It has not produced the turnaround we all want to see. It will take some time. But at least it stopped the recession from becoming even worse.

This recession would not be over yet by anyone's measure had President Obama taken the advice from the other side of the aisle. They believed we should do nothing—nothing—in the midst of a recession. I have heard Senate Republicans come to the floor and criticize President Obama for loaning money to General Motors and Chrysler. I will tell you, in my home State of Illinois, those automobile manufacturing jobs, at General Motors and Chrysler, are good-paying jobs. We have lost a lot of them. But the good news is, those companies are back. They are profitable. They are selling fewer cars and trucks now, but they are selling and they are competitive.

That would never have happened had the Republicans had their way and stopped the President from giving loans necessary to these automobile manufacturers. We would have seen maybe one company, Ford, that might have survived. The other two probably would not be here today in any form, and all the jobs, the tens of thousands of jobs they provide in America, would have been lost.

The Recovery Act saved another 2.7 million Americans from the unemployment roles, according to economists Alan Blinder and Mark Zandi. In case you think: Well, DURBIN, that must be your favorite Democratic economist, Mark Zandi happened to be JOHN MCCAIN's economist when JOHN MCCAIN ran for President, and he credits the Recovery Act with saving 2.7 million jobs.

But even with all these efforts, there is still a lot to do. It is not enough to help the private sector create more jobs. We need for them to be created right here in America. There is one line I can use anywhere in the State of Illinois, and I will bet across this Nation, which I think typifies what most people think about when they think about our economy.

I will bet you I could use this line in the State of Delaware. The line is this: I would like to go into the store tomorrow and find more products stamped ''made in the USA.'' People start applauding. They are sick and tired of all the imports coming in and all the jobs going away.

I know global competition is a fact of life. America could never be a wealthy nation if we just did one another's laundry. We need to produce goods and services that are competitive on a global basis, and we can do it. We have done it in the past and we can do it again. American workers can compete with the best in the world.

But our laws do not give many of our workers a fighting chance. Why should companies be rewarded for shipping good American jobs overseas? China, Germany and Japan and our other competitors do everything they can to generate more work in their home countries so they can sell products from China and Germany and Japan all around the world.

Meanwhile, our conglomerates and many corporations and their friends in Congress defend offshoring tax loopholes that other countries would never allow to stand. That is why I introduced the bill that is going to be voted on tomorrow, with the help of my colleagues and friends, Senator HARRY REID, the majority leader; Senator BYRON DORGAN, who has been our leader for years on this issue; Senator CHUCK SCHUMER of New York, and many others.

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

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

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

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

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

But that is what this debate is all about. The defenders of these tax loopholes have wasted no time in launching an aggressive lobbying campaign against the bill: The Chamber of Commerce, the National Association of Manufacturers have written in opposition to the bill, and the Republican

leader has already spoken on the floor against even debating this bill. He does not want us to bring it up.

The message they send is clear: Corporate profits are more important than American jobs. I could not disagree more. I have watched too many hard-working, middle-class families lose their livelihoods as companies fire American workers and then use the Tax Code to make shifting jobs overseas more profitable.

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

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

I ran into other workers around Illinois as well. To add insult to injury, after a lifetime of working for these businesses, some of these businesses actually bring in the workers from China and Mexico and ask the American workers, in their last week or two of employment, to train the foreign workers to do their jobs. Can you imagine how hard that must be—to realize that tomorrow you are out of work, and the person sitting across the table, whom you are training, is going to have your job?

Then, how about this? How about the fact that the cost of bringing that foreign worker over here to be trained is now tax deductible under our Tax Code? What is wrong with this picture? A good example of a company moving good American jobs overseas happened in Hennepin, IL. The local steel mill there was built in 1966. I remember it. I was a college student out here at the time, and we were so exited. It was Jones Laughlin, if I am not mistaken, when it first started. It changed ownership over the years. It was a big employer in the region around Hennepin.

They employed 600 people at their peak in a steel mill. Imagine that. As of last year, they still had 300 people on the payroll. Arcelor-Mittal, the huge steel conglomerate, bought the plant in 2005. Many in the community said: This is a break, a godsend. That huge company is going to invest in this plant and we are going to keep our jobs.

It did not happen. Arcelor-Mittal decided last year that the profitable plant in Hennepin—they were making money—the profitable plant, was no longer worth keeping open. Just like that, 300 solid, middle-class jobs disappeared.

I received a lot of letters from members of the community. A 10-year-old girl wrote to me:

> My dad . . . got laid off by Lakshmi Mittal, at Mittal Steel. You see, instead of selling the plant, Lakshmi decided to ship all of the parts over the oceans . . .—

This 10-year-old wrote to me and said—

> I think the plant should not be closed because if he shipped the parts all over, then hundreds of peoples' jobs will be lost. Please Help Us!

The heartbreaking news for that young girl is that our Tax Code rewarded the plant for shipping the equipment overseas. This 10-year-old girl, wise beyond her years, heartbroken that her dad had lost his job, may not understand the global implications of plant closings, but she sure knows what it means to her family.

Here is what a 30-year veteran of that plant wrote:

> The plant was shut down in the spring even though it made a profit. . . . Being the father of two college freshman, I have to wonder what the future will hold for my children . . . American industry, the backbone of our country, cannot exist in this environment.

Well, I agree. That is why I am on the floor. That is why this bill is on the floor. We have to do something about it. Here is another one. This is a company that once operated in my home State of Illinois, Honeywell International. They closed their plants in Freeport, Rock Island, Spring Valley, and Springfield and then sent the jobs to India, China, and Mexico.

The Department of Labor certified these workers lost their jobs because the jobs were actually sent overseas. In my hometown of Springfield, the plant closing cost us 120 jobs in the capital city. This was a plant that had been in production since 1938, long before I was born, when it produced the world's first electric clock for automobiles. The plant also supplied electrical products to support our troops during World war II. In an instant, this piece of American history vanished to Juarez, Mexico.

I received a letter from a victim of this particular example of offshoring good American jobs. Here is what he wrote to me:

> . . . stop rewarding Honeywell and other corporations that ship jobs out of the country . . . They don't deserve tax money for making the US unemployment rate go up further.

Well, that is exactly what this bill before us wants to stop. Let me show you one other illustration. U.S. multinationals are increasing hiring abroad and decreasing hiring at home. In total, between 1999, at this end of the chart, and 2008, multinational corporations in the United States added 2.4 million jobs overseas, a 30-percent increase.

Well, there is nothing wrong with companies growing. But look what happened here at home. Here is the problem. During the same period, these American companies cut 1.9 million jobs in America, an 8-percent decrease. It is obvious. The jobs are being shipped overseas and killed at home. This notion by some companies that if you let us produce overseas it will help our jobs back home, it is not happening. Exactly the opposite is happening—jobs overseas, loss of jobs in the United States.

Well, enough is enough. We need to stop rewarding companies, through our Tax Code, for killing American jobs, and we need to create incentives to bring those jobs back home. This bill is very straightforward. It is a clear choice. Senators can decide. Do they want to stand with American workers? Do they want to stand with those corporate interests that want to ship jobs overseas? Do they believe our Tax Code should reward good American companies that pay good wages and good benefits to American workers and stay here or do they want to create an incentive to ship those jobs overseas?

That is what this bill is all about. I hope there will be at least one Republican Senator who will join us in this effort. It would be a breakthrough. I hope it is more than one. But I hope they are hearing the same thing back home. I would just ask those who oppose it to go to your home State, pick the community, pick the town, and invite me to come and debate you, if you are on the other side of the this issue.

You pick it. I want to be in on that debate.

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

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. COLLINS. I ask unanimous consent that the order for the quorum call be rescinded.

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

TAX EXTENDERS

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

These tax laws include important reforms such as the 10 percent tax rate, relief from the marriage penalty, and the child tax credit. They provide tax relief to nearly 90 percent of all

Mainers. If they are not extended, virtually every Maine family and many—indeed, most—of our small businesses will see their taxes increase. If these tax relief provisions are not extended, the typical American family of four with a household income of approximately $50,000 will see their taxes increase by about $2,900 next year. That is right. Coupled with tax increases that are included in the new health care reform law, which I opposed, the result would be one of the largest tax increases in our history.

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

Peter Orszag, President Obama's former OMB Director, recently penned and op-ed for the New York Times in which he argued that this is no time to raise taxes. As he pointed out, the failure to extend existing tax relief would ''make an already stagnating job market worse.'' He went on to say:

> Higher taxes now would crimp consumer spending, further depressing the already inadequate demand for what firms are capable of producing at full tilt.

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

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

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

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

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

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

Another small business I visited is Pottle's Transportation, a trucking company headquartered in Bangor. This company was founded in 1972, and it has grown to more than 200 employees with 150 trucks. Pottle's now provides service throughout the continental United States and Canada, although it concentrates its efforts in the Northeast. It is known for maintaining an impressive on-time delivery record without sacrificing safety. In fact, it has received award after award in recognition of its safety record. Pottle's is also known for its commitment to the environment. Pottle's is a member of EPA's Smartway Program and received the EPA Environmental Merit Award in 2008.

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

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

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

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

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

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

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

So I hope we could come together right now, and before we go home pass a 2-year extension of the current tax

law, to provide some certainty that we are not going to impose higher taxes on the American people and our small businesses.

U.S. POSTAL SERVICE

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

The Postal Service is in the midst of a dire financial crisis. The data are grim. In the first three quarters of fiscal year 2010, the Postal Service posted a net loss of $5.4 billion. By the end of this week, when the fiscal year ends, I expect that number may hit $7 billion that the Postal Service will be in the red for this fiscal year alone.

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

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

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

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

The IG found stunning evidence of contract mismanagement, ethical lapses, financial waste, and excessive executive perks which, if remedied, could allow the Postal Service to realize in excess of $800 million in savings next year alone. That is at a minimum.

Let me give you some startling facts the IG found. For a long time, we have known the Postal Service has been more generous in paying the health insurance and the life insurance premiums of its employees, most of whom participate in the same health insurance and life insurance programs as Federal employees.

But what we did not know until this review was conducted is that the Postal Service pays 100 percent of the health insurance premiums for 835 of its top executives, an expensive perk that no governmental agency appears to provide.

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

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

The Postal Service is now paying 79 percent of health insurance contributions for its rank-and-file employees, in comparison to 72 percent for the average Federal employee. It is a little hard for the Postal Service to make the case to its employees that it needs to reduce health insurance if it is paying 100 percent of the premiums for 835 of its top executives. If the Postal Service brought its benefit contributions in line with other Federal agencies, it could save more than $700 million next year alone.

But that is not all. When Senator MCCASKILL and I requested that the IG review the Postal Service's contracting practices, the IG discovered unfair and unethical practices replete with no-bid contracts and examples of apparent cronyism.

The Postal Service's contract management did not protect it from waste, fraud, and abuse. Indeed, it left the door wide open. The Postal Service could not even identify how many contracts were awarded without competition. The inspector general found that 35 percent of the no-bid contracts it did review lacked justification. As part of its review, the IG discovered that more than 2,700 contracts had been awarded to former postal employees since 1991. Of these contracts, 359 were awarded as no-bid contracts to former postal employees in the last 3 years. Seventeen of them were noncompetitive contracts to career executives within 1 year of their leaving the Postal Service.

Some former executives were brought back at nearly twice their former pay—an outrageous practice the IG says raises serious ethical questions, hurts employee morale, and has tarnished the Postal Service's public image.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

help protect and preserve this vital American institution.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from New Mexico.

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

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

Given the broad enthusiasm for creating clean energy jobs, few seem to notice this alarming trend. But we cannot afford to sit idly by as clean energy jobs steadily and stealthily move overseas. So as we debate this Creating American Jobs and Ending Offshoring Act—which the majority leader is trying to bring forward for Senate consideration, and which I support—I rise to call on the Senate, also, in addition, to pass three commonsense, bipartisan measures that will enable the United States to retain existing clean energy jobs and capture millions of new ones that the burgeoning global demand for clean energy will soon create.

To begin, let me dispel the myth that the United States cannot lead in producing clean energy technology. In fact, we once were the leader. As recently as 1997, we had a ''green trade'' surplus of $14.4 billion. By 2008, that surplus had become a deficit of nearly $8.9 billion. The reversal was triggered largely by a steep fall-off in domestic renewable energy technology manufacturing. For instance, only a decade ago, U.S. solar cell manufacturers controlled 30 percent of the world market. By 2008, that had been reduced to 6 percent. Meanwhile, Chinese production has grown from nonexistent in 1999 to 32 percent of the world total in 2008. Similarly, European manufacturers now account for more than 85 percent of the global wind component market. Today, only 1 of the top 10 manufacturers is an American firm.

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

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

With global clean energy investments expected to reach $2.3 trillion by 2020, we cannot afford to delay measures that will ensure U.S. leadership in this area. We must look to create jobs across the clean energy value chain—from engineering to installation to sales. In particular, we must focus on manufacturing jobs, because failing to grow a domestic clean tech manufacturing base will result in trading our imported oil dependency for an imported clean energy component dependency. In fact, we are already seeing how shortages in renewable energy components and systems have slowed domestic renewable energy production. As we have begun to see, offshoring manufacturing is quickly followed by offshoring of research and development capacity.

To grow our manufacturing base, Congress needs to take decisive action this year to enact, at a minimum, the three commonsense, bipartisan measures I alluded to before. First, we must send the appropriate market signal by enacting the renewable energy standard I have introduced along with Senator BROWNBACK. Expanding demand for clean energy is essential to raising demand for domestically produced goods. For instance, every gigawatt of installed wind capacity—that is roughly enough to power all the homes in Atlanta—is estimated to create 4,300 jobs, more than three-fourths in manufacturing. European firms that now dominate U.S. wind turbine sales developed technical and marketing expertise by serving their own home markets first. Expanding domestic demand will enable American firms to catch up.

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

But a demand-side strategy for clean energy cannot suffice. We also need to focus on the supply side to ensure that policies spurring clean energy demand will not only be filled by imports from overseas. So the second call is to expand the Advanced Energy Project, or section 48C tax credit that we created as part of the Recovery Act. That credit allows qualifying companies to claim a credit for up to 30 percent of the cost of creating, expanding, or reequipping facilities to manufacture clean energy technologies. The Recovery Act authorized the Departments of Energy and the Treasury to award $2.3 billion in tax credits.

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

The third of the initiatives I wish to focus on today is the need to address financing challenges that companies face in establishing onshore clean energy manufacturing facilities. Five years ago, Congress created a loan guarantee program at the Department of Energy. But from its start, the program has faced bureaucratic delays. So far, there are only 14 loan guarantees that have been issued, all of them in the past 14 months and 10 within the last year. The Recovery Act promised to add $6 billion to the program which would leverage about $60 billion in new loans for clean energy projects. Unfortunately, this Congress has seen fit to treat this funding as a piggybank and withdrew $3.5 billion as offsets for unrelated purposes. We need to restore that funding.

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

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

I will return to the floor later this week to discuss a bipartisan package of incentives for clean, renewable energy and energy efficiency and I hope that package will receive priority attention by the Congress before it adjourns as well.

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

We are deservedly proud of our Nation's tradition as a leader in research

and development, in innovation, and in venture-backed investing. With the right policies, we can guarantee that clean technology investment will come to our shores. Let's enact the job-creating legislation pending in the Senate today and then move swiftly to enact legislation creating a renewable electricity standard and a Clean Energy Employment Administration, and expanding the section 48C credit.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

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

On Friday, the Department of Labor made available more than $500,000 to assist 183 Iowans laid off from the ThermoFisher Scientific plant in Dubuque. All of the workers were certified as eligible for trade adjustment assistance. This grant was designed to help unemployed Iowans as they attempt to find new work in an economy that is already desperately short of new jobs.

I am certainly grateful for the temporary assistance from the Federal Government, as I am sure are the unemployed workers and their families. But what is wrong with this picture? Once again, we find ourselves lending modest assistance to American workers whose jobs have been eliminated—whose economic security has been destroyed—because U.S. manufacturing is being shipped overseas. I would note that manufacturing jobs, which are generally high paying, have been particularly hard hit in this economic downturn.

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

Adding insult to injury, these newly unemployed American workers must reckon with the fact that the United States Tax Code actually rewards companies for sending their jobs overseas. That is right. Most Americans don't know this, but the Tax Code actually incentivizes companies that shut down operations and kill jobs in the United States.

This betrayal of American workers is outrageous on its face. And with the official unemployment rate stuck near 10 percent—that is the official rate; the actual rate is closer to 18 percent—it is simply intolerable.

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

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

Secondly, the bill would end the tax breaks for runaway plants, for companies that reduce or close a trade or business in the United States and start or expand a similar business overseas for the purpose of importing their products back into the United States. Under current law, U.S. companies can defer paying U.S. tax on income earned by their foreign companies or subsidiaries until that income is brought back to the United States. This is known as deferral. Deferral has the effect of putting these firms at a competitive advantage over U.S. firms that have stayed here and that hire U.S. workers to make products in the United States. Imagine that. So you take your company and ship it overseas. All of the money that plant makes over there, you don't have to pay taxes on it. You keep your money there and keep expanding your plant, or make another plant in another country that is low wage and has low environmental oversight.

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

The third loophole we have to close is the encouragement businesses get right now to create jobs that go overseas. We have to create incentives for businesses that expand here. This bill would provide businesses with a 2-year break from paying the equivalent of the employer's share of Social Security payroll tax on wages paid to new U.S. employees performing services in the United States that used to be performed overseas. In other words, if they have a plant and a business here and can bring jobs back to the United States, guess what. For 2 years, they get a tax break; they don't have to pay the employer's share of the payroll tax. We will pick it up—the Federal Government, the taxpayers—because those jobs will come back here; people will be hired; and they will be paying into this economy.

Mr. President, I salute the Senator from Illinois, Senator DURBIN, for introducing this bill. I also salute the senior Senator from North Dakota, Senator DORGAN, who has been such an outspoken champion of American manufacturing. He has fought long and hard to end the provisions in the Tax Code that have the perverse effect of actually encouraging and rewarding U.S. companies that ship jobs overseas. I also commend the Senator from Ohio, SHERROD BROWN, who also is a tremendous champion of the focus and attention to try to do everything we can possibly do to keep our jobs here. Ohio has especially been hard hit. If we look at all of the statistics, Ohio has been especially hard hit over the last decade, during the last 8 years of the Bush administration, from all of the jobs that left Ohio and were shipped overseas.

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

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

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

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

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

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

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

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

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

As Senator DORGAN said about Huffy bicycles in Ohio—Senator BROWN's home State—workers there made $11 an hour making those bicycles. But they got fired, laid off, and Huffy bikes are now made in China at 30 cents an hour. The Huffy Corporation reaped millions of dollars in tax breaks as a result of this offshoring.

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

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

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

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

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

I assume our time has expired.

The PRESIDING OFFICER. There is 7½ minutes remaining.

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

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

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

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

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

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

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

Again, that is not part of this bill. That is a discussion we need to have, and we need to have it soon in order to, again, have us take a more or a stronger position in world trade than we have been taking in the last couple of decades.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

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

Rather than working to address our economic woes in any kind of meaningful way, we instead find ourselves voting on what I would describe as ballot box topics designed to gain favor with select groups just weeks before the November elections.

Is it any wonder that the American people continue to give Congress such a dreadfully low approval rating? Is it any wonder that the people of this country look at what is going on and have come to the conclusion that the problems they are facing every day are not being solved?

Back in August, when I was going across the State, I did 14 townhall meetings, open events, where anybody could show up and offer their thoughts. What I heard over and over is that people are just exhausted, sick and tired of the games and the election year politicking that is going on, when we should be working to deal with the problems this country faces.

You see, the people don't care who is scoring political points. They care about their jobs, they care about finding a job if they have lost their job, and they care about keeping food on the family's table. For all too many people in this country, they care about the fact that the job they once had may never come back. They want action. In fact, they are crying out for action.

They want thoughtful approaches to our Nation's problems—not populist rhetoric devoid of any real solutions or a serious attempt to find solutions.

We find ourselves on the floor of the Senate this week debating a bill that has been labeled a jobs bill. Let me point out that there have been no hearings. There has been no debate on the proposal currently before the Senate. There has been no give-and-take in the hearings process to try to figure out if there is a way to come up with an approach that would make sense to create a jobs bill. None of that has happened.

You see, what this bill tries to do is seek to punish U.S. companies that do business overseas under the very misguided assumption that doing so will somehow result in economic growth and job creation at home.

This bill would not create jobs. What it will do is hurt U.S. companies that do operate globally. Let's take a look at exactly what is in this bill and set aside the rhetoric.

The first part is a payroll tax holiday. I want to be the first to admit that I supported the payroll tax holiday when the Senator from Arizona, Mr. MCCAIN, offered it during the stimulus debate. It is so amazing because when that was offered by Senator MCCAIN, our friends on the other side of the aisle wanted no part of the idea whatsoever. Instead, what they wanted was to shove tens and tens of billions of dollars into government spending, leaving businesses essentially out of the stimulus equation entirely.

Now we are seeing an eleventh hour, last-ditch effort that ties strings and redtape to tax relief for businesses.

Yet this proposed payroll tax holiday is different from Senator MCCAIN's. Senator MCCAIN, appropriately so, said: If we are going to get this Nation's economy going again, we need to include all employees in an attempt to bring money to the economy, back to the workers' wallets, where they could better spend or better decide how to spend those dollars.

What we have here is just a narrow element—only for those businesses that replace a foreign worker with an

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

> The concept of economic growth is not a zero-sum game. Replacing a job that is based in another country with a domestic job does not stimulate economic growth or enhance the competitiveness of American worldwide companies.

At a time when we have a 9.6-percent unemployment rate and an underemployment rate in the double digits, do we really want to enact legislation that will set back job creators and threaten our ability to compete in this world? Why does it leave out mom-and-pop, Main Street businesses? Why are they left out in the cold? Even if these small businesses wanted to hire to get a 2-year payroll tax holiday, they could not because they do not have any foreign employees. How absurd. The payroll tax holiday before us today is designed to only help the biggest of the big multinational conglomerates. Talk about standing up for the little guy. Are you kidding me? It tells Joe's Garage or Smith's Tool Shop: You are just simply out of luck. Considering the fact that 65 percent of all new jobs are created by those small businesses—businesses such as those on Main Street in Nebraska—excluding them from hiring tax incentives simply defies any rational logic whatsoever. But that is, unfortunately, what this legislation does.

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

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

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

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

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

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

Once again, the majority has sought to villainize a piece of our economy hoping that somehow by villainizing them, it improves their chances. First, it was the credit card companies. Then it was the student loan makers. Next it was the insurance providers, the energy companies. And the list goes on and on. Unfortunately, this time they are trying to villainize companies that are trying to compete in an international economy.

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

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

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

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

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

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

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

It does not make any sense whatsoever. No tax credit will prevent the punitive measures that are headed toward our population. Again, do not take my word. The National Federation of Independent Business has described it this way:

> Uncertainty about the economy and looming tax hikes has kept this sector from hiring new workers, resulting in a weak economic recovery and slow to nonexistent job growth.

The NFIB went on to say:

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

I could not agree more.

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

I know what is happening out there, and if we all think about it, what we are seeing is the American people are not fooled. They simply will not be fooled. They know that this latest bill supposedly meant to create jobs will not do a darn thing to address their concerns—looming tax increases, mounds of new regulations, and new 1099 paperwork mandates.

If I were going to design the perfect strategy for economic growth in our country, here is what I would say the people of Nebraska are telling me. They are saying: Extend all of the 2001 and 2003 tax reductions. Why? Because

that is what makes the most sense for our economy. They see this massive tax increase out there, and they are asking themselves: How could you let that happen in these economic times?

Second, they would say: Repeal the 1099 mandate. We had a vote on that issue recently, as you know, Mr. President, on an amendment I offered. In that health care bill buried at section 9006 is a provision that says to every small business, every large business, every medium-sized business in America: Thou shalt do it this way, and this way is that if at any time during the year you buy more than $600 from any vendor, you have to produce and provide to that vendor a 1099 form and provide a copy to the Internal Revenue Service. It doesn't stop there. It also applies to churches, to nonprofits, to State and local governments. It is an absolute wave of new paperwork. One business group estimates it would increase paperwork by 2,000 percent. What have I heard from my businesses in Nebraska, especially our small businesses? They are saying: At a time when we need your help, what you are doing to us is burying us in paperwork, and we don't have the employees to deal with this.

This is a crisis that is hitting our job creators, and I am extremely disappointed with where we are today. We are literally not advancing the cause of creating jobs in this country. We are taking a course of action, instead, that is all about populism, that is all about gaining favor between now and November.

But I will say again: The American people have figured this out. They get it, they understand it, and they are watching us very closely. The bill we are debating is nothing more than an election year stunt, when we could be acting to prevent the largest tax increase in our Nation's history.

In those 14 townhall meetings, as I traveled from the largest community in our State—the city of Omaha—to some of the smallest communities in our State—Benkelman, in the very southwestern part of our State—I heard a common message. People wanted me to come back to Washington and fight for them against whom? Against a Washington government that they think has lost touch with their real problems, their real concerns. They wanted me to come back and speak on their behalf about what Washington politicians are doing to their businesses, to the job creation which this country depends upon, and to their pocketbooks. They asked me to come back and speak on their behalf because they see this tsunami of legislation that has come their way and they do not like any part of it.

It is no surprise to me whatsoever that what we are seeing out there are people who are sick and tired of what is going on here. They are sick and tired of a health care bill that is raising their premiums, forcing them into individual mandates, and complicating business creation literally to the extent where a job creator says to me: I can't grow this business beyond 50 employees because of what you have done to us in this health care bill.

It is a remarkable day in our Nation's history when the people of this great Nation are asking their elected representatives to come back here and fight against their government, but that is exactly what is happening. They are asking us to stand for them and to say to what is going on here: Enough is enough. We have punished the American people with endless regulations and with endless tax increases. At the end of this week, every Member of this body will be forced to go home and say: In a week where we could have made a difference and given you certainty and extended the 2001–2003 tax cuts, it wasn't done. Instead—instead—during this time, politics was played and nothing happened; just like we know today that politics is being played.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Ms. STABENOW. Mr. President, this evening, we will be discussing—debating—a very important principle; that is, whether we are going to focus on making things in America and whether we are going to stop the incentives that ship our jobs overseas. This debate is about our efforts, through a bill we will be voting on tomorrow, to stop shipping our jobs overseas. That is what this is about.

We know we are in a global economy. We understand we need to do business around the world, but we want to export our products, not our jobs. Right now, we are exporting too many of our jobs. Frankly, there has been no State that has been hurt more from this set of policies as well as inactions than my home State of Michigan. No State has been hurt more.

For too long, we have not been enforcing our trade laws. We allow China to manipulate their currency so they can bring products into our country at a cheaper price artificially, which is against WTO. It is against the law. But they have been allowed to do that. I am very pleased the House is going to be taking action this week to address that. A number of us, Senator SCHUMER and I, Senator LINDSEY GRAHAM and a number of others, have legislation to do that, and we will be addressing that as we move forward in the Congress the rest of the year to get that done.

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

There is an incentive to create American jobs by allowing a company that, after the passage of the bill, brings back a job—hopefully a lot of jobs—to the United States sometime in the next 3 years. They would get a holiday of the payroll tax for 2 years, for 24 months, if they are bringing jobs back and it is clear that job was coming back from overseas. If they are stopping a job overseas, creating a job here, we want to create an incentive.

We also want to take away those things that have encouraged jobs being shipped overseas. The second provision would deny business deductions of any costs associated with moving jobs overseas.

The third provision would end corporate tax deferral of overseas income.

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

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

We have a Tax Code that would allow Electrolux to write off the business expenses to take those 2,700 jobs down to Mexico. This legislation stops that. It would provide incentives for bringing jobs back.

We cannot have an economy unless we are making things. That is the second part of what we are doing. We want to stop jobs being shipped overseas, but we want to make it in America. We want to make things in America again. We do not have an economy, no country has an economy, unless we make things and grow things and add value to them. I am very proud to say in

Michigan that is what we do: We make things, we grow things, we add value to things. If we focus on making things in America again, we will not only bring jobs back, we will bring the middle class back because, as we have learned painfully, after seeing the last decade a focusing on cheap prices but not where things are made, that if we do not have manufacturing in this country and if we are not focused on where things are made, we will lose good-paying middle-class jobs. We have lost many of them.

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

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

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

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

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

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

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

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

I see my colleague from California here, who is such a champion on this issue, who has spoken out so many times on behalf of her State of California. We share many things, actually, in terms of innovation. In fact, we talk about innovation oftentimes as created in California, that we are buying it and putting it in our automobiles as well as creating it ourselves in Michigan. We have a great partnership.

You have more computer power in your automobile than anything else you own and we are very proud of that, and we are proud of the partnership we have—I am proud of the partnership with my friend from California, who is such a fighter for her people and a fighter for jobs.

I will relinquish the floor at this time, but let me say this is very simple and the vote tomorrow is very simple. We want to stop shipping jobs overseas. We want to make it in America again.

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

Mrs. BOXER. Mr. President, I want to thank Senator STABENOW for her leadership on this and so many issues relating to jobs—jobs here in America. I had the opportunity to listen to a bit of the debate back and forth. I heard some of my colleagues who were not in favor of this very important bill that we hope to move tonight, to reward companies that produce jobs and create jobs in America and take away the tax breaks from those who ship jobs overseas and then try to import those products back to America. We are saying let us reward those who create the jobs here in America. That is as simple as it gets.

I have heard my colleagues on the other side say in a very convoluted way that when we give tax breaks to companies that ship jobs overseas, it actually winds up creating more jobs in America. I wonder if they have met some of the people I met, who actually went to other countries to train their replacements. They went to other countries to train their replacements.

We just passed a very important small business jobs bill. I saw the President today sign it into law. It is going to create jobs right here in America because, guess what, it is setting up a lending system, a deficit-neutral fund through our community banks. That $30 billion deficit neutral fund will be leveraged to $300 billion and we will see a half million jobs created through the small business community. They need access to capital.

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

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

Manufacturing is an essential part of our economy. We have to do all we can

to promote a strong manufacturing base here at home. In my State of California, over 1.2 million Californians work in the manufacturing sector, and the products these men and women make contribute $180 billion to our State's economy.

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

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

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

That is what we have been rewarding. A Duke University study tells us the number of companies with a corporate offshoring strategy in place more than doubled in the last 3 years. A lot of us know Senator DORGAN has been a real champion on this issue of ending tax breaks for companies that shift jobs overseas. I was proud to support his measure to end those tax breaks at least four or five times. He has come to the floor to tell the stories of American companies that have uprooted their production lines in the United States, relocated to foreign countries, only to resell their products made by foreign workers to American customers, while receiving a tax break for doing that.

What is so important about these stories is, it is not just the job losses associated with companies shipping jobs overseas that hurts, it is that these companies have served as the center, the heart, of many of our communities. When a bicycle manufacturer closed its last factory in Ohio, 1,000 Americans lost their jobs to foreign workers who now build bicycles for American children to ride. So my colleagues on the other side can talk about how great that is for the workers, but 1,000 Americans lost their jobs. That is clear.

On the day the company left town:

> Nearly 1,000 union workers streamed from a dark factory into the sun-drenched day. One worker, then another, then dozens and maybe hundreds removed their shoes. They walked in their socks to their cars and trucks and drove off the property for the last time. In their wake was a parking lot littered with rows of shoes set neatly on the asphalt. The message: Try filling these.

When an appliance company announced it would leave Indiana for Mexico, a woman who had worked decades at the plant wondered what would happen to her friends and neighbors.

> Will they be able to stay and find work? Where is our community headed?

A candy manufacturer closed plants in Pennsylvania and Oakdale, CA. About 3,000 jobs were lost between the two shutdowns. At the Oakdale plant, a number of employees broke into tears when they were told of the plant closure. Said a worker who had been at the plant for 26 years:

> I was one of the ones who was expecting it, but there were a lot of people in denial who took it really hard. There were a lot of people crying. It's shocking. It is so fast.

So my colleagues are going to tell you this is complicated. They are going to tell you: Oh, but you ship these jobs over here and we get more jobs here. Talk to those people—3,000 jobs. Talk to them.

This is a quote from the executive director of the nonprofit California Commission for Jobs. He said the plant closure ''kind of tears at your heart strings because it is such a piece of Americana.''

There are so many examples in my State of companies shipping jobs overseas. Here is what they include: a medical device manufacturer that moved 1,200 jobs to Mexico; a speaker electronics company in Chatsworth that shut down its plant and moved to China; an aviation technology company that closed its manufacturing facility in Hayward and moved jobs to China; a printer manufacturer in Camarillo that is moving its production line to China, costing 400 jobs; an optical lens manufacturer that cut 700 jobs in Petaluma and moved production to Mexico.

Here is the thing about our bill. What we do is very smart. We have a carrot-and-stick approach. These companies moved American jobs overseas. They were eligible for tax breaks on their way out of town, and they are selling American products back to us, back to American consumers, that used to be made by American workers. The Tax Code, as it is now, gives tax breaks to these companies. In so many ways it encourages them, encourages them to move. Close your plant and moving it to China. Right now, the Tax Code gives you the ability to take tax deductions, tax credits, write off losses associated with closing your factory and moving it overseas. It is wrong.

U.S. companies have taken great advantage of this tax benefit, slashing workers, moving production abroad, and receiving billions in tax credit as a result. It seems to me this must end, and we need to reward companies that stay in America, that stay in California, that employ our American workers.

Earlier this year, we passed legislation to keep over 16,000 teachers in California in the classroom, and we paid for that bill by closing tax loopholes for companies that ship jobs overseas. That was an important step. But more needs to be done to bring those jobs back home to help American businesses invest in our economy.

I have talked to American businesses that are creating jobs here at home. They are thrilled to do it. But they look at me and say: Why would you reward people who pack up, move out, and slash the American workforce? My answer is: I should not be doing that, and thank you for raising the subject with me.

That is why this legislation is so important. It will end tax subsidies businesses can receive for closing U.S. factories and moving them overseas. Remember, we are not talking about foreign sales. So do not let anybody confuse you on it. We are talking about manufacturing, production. We are talking about a company that produces a product here and decides to move that operation abroad. They are encouraged to do so by our Tax Code.

Today, we are saying—and we hope we get support from our colleagues—let's end those incentives and incentivize those who create jobs in America. The bill promotes job creation here at home. It includes, as I said, a 2-year payroll tax holiday for U.S. companies that hire new American workers to replace foreign employees, creating incentives for companies to bring jobs back home and invest in America's economy—in America's economy.

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

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

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

But if we incentivize companies to move overseas, we could lose that. We want to be the innovators, the creators. We also want to be the producers. So it seems to me, if we proceed

to this bill, we are taking a big leap forward, and that leap forward means we are sending a clear signal: If you choose to create jobs in America, we want to give you every incentive—tax breaks, tax holidays—for your employees. But if you choose to close shop and send those jobs elsewhere, to China, to India, wherever, what we are saying is: You can do that, but we are not going to give you a reward for it.

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

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. ROBERTS. Mr. President, reserving the right to object.

The ACTING PRESIDENT pro tempore. The Senator from Kansas.

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

The ACTING PRESIDENT pro tempore. Objection is heard.

The Senator from Minnesota is recognized.

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

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

Ms. KLOBUCHAR. I have come to the floor today in support of the Creating American Jobs and Ending Offshoring Act, which I believe, as was well stated by the Senator from California, will go a long way towards promoting job creation in the private sector and leveling the playing field for American workers.

In recent months, reports have shown that retail sales are up, hourly wages are rising, and household debt is at its lowest point in a decade. We have seen some particularly promising bright spots in Minnesota, where our manufacturing exports increased 19 percent in the second quarter to $4.3 billion.

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

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

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

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

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

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

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

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

Second, this bill will close the tax loopholes that have put our workers at a competitive disadvantage, a provision that will also encourage companies to bring jobs back to the U.S.

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

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

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

I often think about the opening ceremonies at the 2008 Summer Olympics in Beijing, the ones that featured that perfectly synchronized 2,000-man drumming routine. Well, those drumbeats are only getting louder and louder.

While China builds the world's leading solar energy industry, we sadly still have not passed an energy bill, despite some that call for a renewable energy standard. While India encourages invention and entrepreneurship, we give our innovators the runaround. And while Brazil produces more engineers, we let our students fall behind.

The world is moving ahead fast. But we are not going to let it pass us by.

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

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

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

I yield the floor.

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

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

The ACTING PRESIDENT pro tempore. The Chair is under the impression that a live quorum call will be made at 7. The Senator has 30 minutes.

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

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

So I thank the President for making that very clear. Hopefully, that sheds some light on what we are doing on a Monday evening, which some Senators would simply call a bed check. We are scheduled to vote at 11:30 tomorrow on whether to proceed with a debate that has been taking place here on the Senate floor. I think that obviously would be the time for the debate. But I think I have about 20, 25 minutes here to make my comments. I shall proceed.

We are really talking about a tax bill. I know the authors of the bill, the people who have spoken before, obviously think it is a major issue. It is a very important issue, but what we are really talking about is bringing to the floor a debate that raises taxes on U.S. companies and makes them less competitive globally. I don't think that is a very good idea, a tax increase on these companies, given the difficult times we have and given the difficult times we have in our export markets, to make our U.S. companies that deal

overseas less competitive. But I don't think we should be surprised, given that the majority has not yet acted to keep taxes from increasing for families and small businesses—everybody—come next January. That is the real bill we should be considering. That is the bill we certainly should be considering before we adjourn until the lameduck session of Congress which I assume is still being planned.

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

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

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

The health care reform law has already broken the pledge in regard to that of the President, the $250,000 and the $200,000, because that imposes a slew of new taxes on small businesses and health care consumers, including those earning well under these income levels. So we should be weary of any pledge by the President or the majority to protect taxpayers from the harmful tax increases that are set to take effect in January. With less than 90 days—about 3 months—left in the year, this administration and the majority in Congress have done nothing except talk about it in their caucuses and to find out where the votes were and to find out how it was playing before the election. That is the truth. Nothing to prevent this massive tax hike on American families and small businesses.

Now it is September. I don't think most families are really thinking about their income taxes right now. They should, but they are not. They put the frustration of April 15 behind them. Tax freedom day is somewhere down the road in April or May. That is when you are paying all the taxes, and that is where all of your income goes to government and you finally have tax freedom day. That becomes something that comes to their mind right off the bat in the spring. But some families were fortunate enough to able to take a vacation as of this summer or late summer. However, many were working instead and very happy to do so, given the situation in regard to jobs. They are just happy to have a job to provide for their families. But none of them are probably thinking about what is going to happen on January 1. They will be handing more of their paycheck over to Uncle Sam. That is exactly what is going to happen if the administration and the majority in Congress do not act and do not act soon. We should act before a lameduck Congress.

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

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

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

These taxes will go up dramatically next year. If you read any financial publication, are aware of any think tank that deals with taxes and finances and the economic outlook for this country, you find out that is going to have a dramatic effect—a very unfortunate law of unintended effects. Those taxes will go up, as I said, very dramatically next year by as much as 33 percent for capital gains and 164 percent for dividends.

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

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

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

The President's supporters in the Congress have yet to introduce a bill to prevent this tax hike. It is that simple. We certainly do not see any language on a bill to prevent these massive tax hikes that go into effect on January 1.

However, the President and his supporters in the Congress say they want to extend tax relief for everyone but those taxpayers they say are wealthy. Who are these folks? Who are these wealthy taxpayers? Well, under the President's proposal, and presumably the proposal supported by most in the majority, it is any individual who earns more than $200,000 in income per year or any family who earns more than $250,000.

I know there are some who earn much less than these amounts who think that sounds fine. Well, maybe to some it does. It is always:

> Don't tax me. I won't tax thee. Tax the guy behind the tree.

There is a little bit of envy here that goes on among all of us, I think, in our hearts when we look at people who earn huge salaries. Somehow, some way that we have now defined those people at $250,000 and $200,000.

I think that is unfortunate because we all benefit—we all benefit—when incomes increase and people become successful. That is how the economy gets turned around. That is how we have people who are entrepreneurs and they invest and they provide more jobs. When incomes go up and people have more of their own money to spend and invest as they see fit, more businesses are started, expanded, more jobs are created and—guess what—more income comes into the government.

There is a lot of money sitting on the sidelines waiting. If you do not take more money out of people's pockets, you will see, I think, a burst of economic activity that results directly or indirectly to the Federal Government.

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

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

Because many small business owners pay their taxes on their individual income taxes, if the top two income tax rates are increased as the President proposes, small business owners in these tax brackets will pay those higher income tax rates.

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

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

According to the nonpartisan Joint Committee on Taxation, that means three-quarters of a million businesses—750,000 small businesses—will pay higher taxes.

Allowing the top rates to expire subjects nearly $500 billion—another $½ trillion—in small business income to higher taxes. This is a very conservative number. Further, small businesses with between 20 and 299 workers employ about 25 percent of the U.S. workforce. So we are taking action to raise taxes on 25 percent of the U.S. workforce.

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

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

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

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

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

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

Let me make it as clear as I can. The same members of the majority who supported the small business bill and who insisted we must provide them tax relief are the very ones who oppose extending income tax relief that will benefit small businesses. That is a contradiction. That is tough to explain, it seems to me. I am pretty sure a lot of people are simply not going to understand that, especially in the next month or in November.

If it is so important to provide tax relief to small businesses in this bill, why isn't it equally important to extend other small business tax relief? We will not get our economy back on track until small business begins hiring, period, and they are not going to hire if they have to pay more taxes in January on top of what they have already been burdened with in the health care bill. Yet that is precisely what the administration's proposal will do.

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

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

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

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

The majority has been in power for nearly 4 years. They have had plenty of time to address this issue, plus estate tax reform, plus the AMT, plus all the other things we say we are going to do as members of the Finance Committee. I am privileged to serve on that committee. Yet, similar to a child who has not done his homework, they have put this off until the last minute, creating enormous uncertainty for families and small businesses.

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

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

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

had all sorts of problems, Iraq, two major wars, but we did that.

Three short years later, the deficit has more than quadrupled and this year is estimated to come in at approximately $1.3 trillion—not billion, trillion. ''Trillion'' has become the watch word of the day; not billion, trillion.

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

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

Further, the President has already said he doesn't plan to pay for the cost of extending about 74 percent of the expiring tax relief—that is about $2 trillion—that benefits lower and middle-income taxpayers. I am for that. Everybody here is for that. And that number is actually expected to go higher. Yet the remaining 26 percent of the tax relief—that tax relief that in part benefits small businesses—the President doesn't want to extend. Why not? Here is the kicker. He says we can't afford it.

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

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

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

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

I repeat, again, we are all for that.

They continue:

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

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

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

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

Mr. ROBERTS. I ask unanimous consent for 30 seconds.

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

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

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

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

The PRESIDING OFFICER. The clerk will call the roll.

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

[Quorum No. 5 Leg.]

Akaka	Kohl	Roberts
Alexander	McCain	Vitter
Bond	McConnell	Webb
Cardin	Merkley	
Collins	Reid	

The PRESIDING OFFICER. A quorum is not present.

Mr. REID. Mr. President, I move to instruct the Sergeant at Arms to request the presence of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. CARPER), the Senator from North Dakota (Mr. CONRAD), the Senator from Connecticut (Mr. DODD), the Senator from North Dakota (Mr. DORGAN), the Senator from North Carolina (Mrs. HAGAN), the Senator from Massachusetts (Mr. KERRY), the Senator from Arkansas (Mrs. LINCOLN), the Senator from Maryland (Ms. MIKULSKI), the Senator from Washington (Mrs. MURRAY), the Senator from Florida (Mr. NELSON), and the Senator from New Hampshire (Mrs. SHAHEEN) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Kentucky (Mr. BUNNING), the Senator from Texas (Mr. CORNYN), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Idaho (Mr. CRAPO), the Senator from Wyoming (Mr. ENZI), the Senator from South Carolina (Mr. DEMINT), the Senator from South Carolina (Mr. GRAHAM), the Senator from Utah (Mr. HATCH), the Senator from Texas (Mrs. HUTCHISON), the Senator from Georgia (Mr. ISAKSON), the Senator from South Dakota (Mr. THUNE), the Senator from Alaska (Ms. MURKOWSKI), the Senator from Idaho (Mr. RISCH), and the Senator from Arizona (Mr. KYL).

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

The result was announced—yeas 48, nays 25, as follows:

[Rollcall Vote No. 241 Leg.]

YEAS—48

Akaka	Franken	Nelson (NE)
Baucus	Gillibrand	Pryor
Begich	Goodwin	Reed
Bennet	Harkin	Reid
Bingaman	Inouye	Rockefeller
Boxer	Johnson	Sanders
Brown (MA)	Kaufman	Schumer
Brown (OH)	Klobuchar	Specter
Burris	Kohl	Stabenow
Cantwell	Landrieu	Tester
Cardin	Lautenberg	Udall (CO)
Casey	Leahy	Udall (NM)
Durbin	Levin	Warner
Ensign	Lieberman	Webb
Feingold	McCaskill	Whitehouse
Feinstein	Merkley	Wyden

NAYS—25

Alexander	Corker	Roberts
Barrasso	Grassley	Sessions
Bennett	Gregg	Shelby
Bond	Inhofe	Snowe
Brownback	Johanns	Vitter
Burr	LeMieux	Voinovich
Coburn	Lugar	Wicker
Cochran	McCain	
Collins	McConnell	

NOT VOTING—27

Bayh	Dorgan	Lincoln
Bunning	Enzi	Menendez
Carper	Graham	Mikulski
Chambliss	Hagan	Murkowski
Conrad	Hatch	Murray
Cornyn	Hutchison	Nelson (FL)
Crapo	Isakson	Risch
DeMint	Kerry	Shaheen
Dodd	Kyl	Thune

The motion was agreed to.

The PRESIDING OFFICER. A quorum is present.

The Senator from Missouri.

Mr. BOND. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the motion to proceed to S. 3816. The time is organized in 30-minute alternating blocks.

UNANIMOUS CONSENT REQUEST—S. 3072

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

Works be discharged from further consideration and the Senate proceed to the immediate consideration of S. 3072, introduced by my colleague from West Virginia, Senator ROCKEFELLER, that would delay for 2 years U.S. EPA implementation of carbon regulations; I further ask unanimous consent that if the majority is serious about protecting American jobs, that we must be allowed to take bipartisan action to protect the American people from the backdoor national energy tax coming in the form of new job-killing carbon regulations from EPA; that the bill be read three times and passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. The Senator from Illinois.

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

The PRESIDING OFFICER. Objection is heard.

The Senator from Missouri.

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

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

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

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

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

UNANIMOUS CONSENT REQUEST—H.R. 3617

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

American taxpayers are currently allowed to deduct either State income or sales taxes on their Federal tax return. Americans who live in States with a State income tax have always been able to deduct their State taxes. Since passage of the 1986 tax reform, Americans living in States without a State income tax have been out of luck.

With the leadership of Senator KAY BAILEY HUTCHISON, Congress responded by reinstating a deduction for State sales tax. This provision provided financial relief for millions of taxpayers, and it brought back some fairness to the Tax Code. Americans in States that have no income tax, such as Wyoming, Texas, Alaska, Florida, Nevada, South Dakota, and Washington, finally received relief similar to individuals in States with State income taxes.

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

Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3617; that all after the enacting clause be stricken and the text of S. 35, a bill to provide a permanent deduction for State and local general sales taxes, be inserted; I ask unanimous consent that the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the measure be printed in the RECORD.

The PRESIDING OFFICER. The Senator from Montana.

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

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

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

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

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

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

The PRESIDING OFFICER. Objection is heard.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Finance Committee be discharged from further consideration of H.R. 4994——

The PRESIDING OFFICER. The Senator does not have the floor.

Mr. BAUCUS. Mr. President, I seek recognition.

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

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

The PRESIDING OFFICER. That is correct.

Mr. BAUCUS. What is the parliamentary procedure?

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

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

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

The PRESIDING OFFICER. No.

Mr. BAUCUS. Mr. President, I ask unanimous consent to speak for 1 minute.

The PRESIDING OFFICER. Is there objection?

Mr. SESSIONS. I would be pleased to yield.

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

UNANIMOUS CONSENT REQUEST—H.R. 4994

Mr. BAUCUS. I thank my colleague.

Mr. President, I ask unanimous consent—it is on the same subject—that the Finance Committee be discharged from further consideration of H.R. 4994, taxpayer assistance; that the Senate then proceed to its immediate consideration; that all after the enacting clause be stricken and the text of the Baucus substitute amendment, the text of Calendar No. 572, S. 3793, be inserted in lieu thereof; that the substitute amendment be agreed to, the bill, as amended, be read a third time and passed, and the motion to reconsider be laid upon the table; that the title amendment, which is at the desk, be considered and agreed to.

The PRESIDING OFFICER. Is there objection?

Mr. BARRASSO. Mr. President, reserving the right to object, I would say that Senator THUNE has a bill similar in design to deal with a number of needed concerns and considerations, and in light of the fact that Senator THUNE's legislation has been objected to and not yet been able to get clearance from the other side, I do object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Alabama.

GLOBAL COMPETITIVENESS

Mr. SESSIONS. Mr. President, the World Economic Forum recently published its global competitiveness survey. It shows that the competitiveness of the United States has declined from first place in the world to fourth place since President Obama took office in January.

What is the main reason for this decline? Too much debt and too much spending. There are other reasons, but that is the primary one they cited. I would suggest that the proposals to drive up the cost of energy by regulation and cap and tax—supposedly to create green jobs—are another form of anticompetitiveness that hurts our productivity as a nation. A study of Spain, which has some of the most powerful alternative energy proposals and has taken some of the most dramatic action, has shown that even though there are green jobs created, the overall rise in the cost of energy in Spain has cost that nation more jobs than were created by the green activities.

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

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

The article goes on to note:

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

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

How high is our debt today? It is $13.6 trillion or $44,000 for every man, woman, and child in America, and it is 93 percent of our gross domestic product, which is significant because a famous study produced earlier this year by economists Kenneth Rogoff and Carmen Reinhart demonstrated that economic growth slows substantially—it reduces GDP growth by 1 percent—when debt exceeds 90 percent of GDP. We are already over that. And when our economy is only growing at 1.6 percent—as it was in the second quarter—an extra 1 percent is a lot when you are talking about growth. They talk about a new normal where we may be showing only 1, 2, 3 percent growth for years to come. So if you lose a percent based on debt, that is very damaging to the American economy. Well, do we have a plan to reduce it? Have we taken any steps? Actually, the President's budget makes the problem worse. It shows that the gross debt by 2019 would go to $23 trillion—106 percent of GDP.

Look at this chart on interest payments. It is so stunning that I think every American needs to examine it. It reflects the analysis by the Congressional Budget Office, our professional budget office that serves us, the leadership of which is hired by the Democratic majority. They are good people, and this is what they have calculated. In 2009, the interest we paid on all the debt in this country was $187 billion. By 2020, they calculate that the 1 year's interest payment would be $916 billion—almost $1 trillion. This is a stunning figure. Last year, the baseline budget—or at least 2 years ago—on highways was about $40 billion. I think the spending on education totally is about $100 billion.

So we are talking about $900 billion in interest now because the public debt will triple from last year to 2019 under the budget submitted by the President. You would think we would be talking about that in Congress and we would be dealing with a budget and plans to try to bring that under control, would you not? Surprisingly, we haven't had any real discussion about the budget this year. Indeed, we haven't debated the budget on the floor of the Senate at all. This will be the first year since the modern budget process was created in 1974 that Congress has not even considered a budget. It was not brought up. It has not even been produced here.

Mr. WICKER. Mr. President, would the Senator yield for a question on that point?

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

The PRESIDING OFFICER. The Senator from Mississippi.

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

Mr. SESSIONS. That is correct.

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

I wonder whether the Senator would like to talk about his particular plan, a bipartisan plan, that at least attacks the exponential growth we have had in discretionary spending. I think the Senator has a plan with the Senator from Missouri that would attack this issue at the discretionary level, virtually freeze domestic discretionary spending, and, at least for that small part of the budget, give us some relief; is that correct?

Mr. SESSIONS. That is correct, and I thank my colleague for mentioning that.

Senator CLAIRE MCCASKILL, my Democratic colleague from Missouri, and I have offered legislation that would essentially take the budget that was submitted last year, which had a 5-year number. The first-year numbers were not very good.

I will show some of the spending increases last year in our baseline accounts. I know my colleagues will find this hard to believe because it is so stunning, but the State Department and Foreign Operations got a 32-percent increase in baseline spending last year. EPA got a 35-percent increase. Commerce, Science, Justice, that is, the Commerce Department and the Justice Department, received 12.3 percent. The Treasury-HUD number was 23 percent; Agriculture, 8; and Defense, 4.1.

So we have been spending rapidly, but the budget called for less spending this year and next year and the next year. It was a 5-year budget. So we asked our colleagues: Let's, on a bipartisan basis, pass legislation very similar to what was passed in the 1990s. That really was a critical act in achieving a balanced budget in the late 1990s, and this action would say that if you went above that spending level, which is basically projected to be 1 percent or so, it would take a two-thirds vote of the Congress. This would help us maintain spending, wouldn't my colleague agree, if we had a two-thirds vote?

Mr. WICKER. If the Senator would continue to yield, I would say that I think it would certainly be a start. And I daresay that if Senator SESSIONS and I were the sole deciders on this issue, we might find a way to cut spending even further. But on a bipartisan basis, we ought to at least be able to say: Mr. President, let's bring to the floor for discussion a proposal that would virtually freeze domestic discretionary spending for 1 year.

I would commend to my colleagues a letter dated July of this year from every Republican on the Senate Appropriations Committee pointing out, No. 1, the enormity of the Federal debt and the problem and direct threat it poses to national security; the need for a long-term plan; the fact that the committee is compelled, outside of a budget because we didn't even get a chance to debate one, to come up with a top-line number; pointing out the Sessions-McCaskill legislation that would essentially freeze nondefense spending, and, importantly, every Republican on the Appropriations Committee said we were committed to that number. I think that as the American people begin to look at us, particularly as we move toward this crucial vote on November 2, it is important for them to understand that Republican appropriators have made that commitment and made it in writing as long ago as July of this year.

Mr. SESSIONS. Well, I think that is important to note, and I would further note that every single Republican supported the McCaskill-Sessions amendment, but also 18 Democrats supported that. I believe that if we had the leadership just say yes instead of no, it would pass easily. It would be a healthy thing because it would send a message to the financial markets worldwide that we at least have some fiscal discipline, and it would be very

unlikely that spending would go above this level if we had a two-thirds supermajority point of order to object to spending over that level.

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

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

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

We were spending an enormous sum of money in fiscal year 2008. I do believe that in this crisis we have, we can get back to that level and make do. That is so important in light of what this Congress and this administration have done to the national debt in 3 short fiscal years. Last year, this government added $1.4 trillion to the national debt. That is $1.4 trillion we spent here in Washington that we didn't have. This year, it will be almost that much—$1.34 trillion. And if things don't change, the national deficit, which will add to the debt, the next fiscal year will be $1.42 trillion. It is a crisis. We need to address it, and this legislation is a start.

The PRESIDING OFFICER. The time of the Senator has expired.

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

The PRESIDING OFFICER. The Senator from Vermont.

Mr. SANDERS. Mr. President, I am going to be talking about a very serious crisis of offshoring, but before I do, I want to say a word about the budget. I am glad to hear my Republican colleagues being so very concerned about our budget deficit. My question is, where were they during the Bush administration when the budget debt of this country nearly doubled? We went to a war in Iraq, which some of us voted against, which will end up costing this country $3 trillion—unpaid for. I did not hear a concern at that point.

They gave many hundreds of billions of dollars to the top 1 percent in tax breaks, unpaid for. We didn't hear about the national debt concern there.

They brought forth legislation to bail out Wall Street, unpaid for; they passed a Medicare Part D prescription drug program, unpaid for.

I am very glad today our Republican friends are concerned about the deficit and the national debt. It would have been helpful to this country if they had been concerned about that issue 5 or 6 years ago, while they were in the process of doubling our national debt.

But the issue I did want to talk about this evening is, as I think most people understand, the middle class of this country——

Mr. WICKER. Was the Senator asking a rhetorical question or would he yield for an answer to that question?

Mr. SANDERS. I will be delighted to, when it is your time.

Mr. WICKER. Clearly it was a rhetorical question.

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

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

Under President Bush, our trade deficit with China more than tripled, and our overall trade deficit nearly doubled. Today our trade deficit is over $370 billion. In other words, we are importing $370 billion more than we are exporting.

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

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

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

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

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

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

standards of people around the world instead of promoting a destructive race to the bottom, which is what we are seeing now.

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

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

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

We have to recognize that if this country is going to remain a major economic force in the global economy, if we are going to have decent jobs for our kids and our grandchildren, we must rebuild the manufacturing sector of this country. We must demand and develop policies that enable corporate America to start rebuilding our manufacturing sector rather than moving abroad in underdeveloped countries. The legislation we have before us is a good start but, as I have indicated before, much more has to be done. I hope when we come up with a cloture vote tomorrow we can at least get the support of several Republicans, just a couple who are prepared to stand with the American worker, who are prepared to help us rebuild our manufacturing base so we can create the desperately needed good jobs we have to build.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. BROWN of Ohio. Mr. President, I wish to echo the comments of the Senator from Vermont who has been discussing and debating and critiquing and understanding these issues of job sourcing as well as anybody in this institution. I am incredulous that we are fighting to bring this legislation to the floor, this legislation which will help us rebuild our industrial base, which will help us create, enlarge, strengthen the middle class, which helps us with our budget deficit and our trade deficit and will help us again become a country that knows how to make things.

In my State of Ohio we know how to make things. We know how to make chemicals and paper and cement and steel and autos and aluminum and glass. We led the Nation in many of those things. Yet look around and we see what has happened in our country.

The bill we are debating today is about helping Americans, not appeasing the Fortune 500, which is what the Republicans are doing tonight. It is about saving jobs. It is not about padding corporate bonuses. As they have done again and again over the last year and a half, my Republican colleagues are selling out the middle class.

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

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

Let me put up a chart here to show some examples in my State of some companies that are pretty well known: ''American Standard Company factory in Tiffin To Close.'' If you go into a restroom, most of the plumbing equipment was once made by American Standard in Tiffin, OH. Bain Capital out of Massachusetts, Governor Romney's company, came in and basically did away with that company.

''Etch A Sketch Leaves Home.'' Etch A Sketch is called the Ohio Art Company, in Bryan, OH.

A small town at the corner of Senator STABENOW's Michigan and Indiana. Walmart came to Ohio Art Company and said: We want to make Etch A Sketch. We want to sell it at Walmart for under $10. The only thing that Ohio Art Company could do was shut down that part of the factory and move it to China.

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

But do you know what has happened? Not since colonial times has American business had a business plan where they lobby Congress to change the rules. My Republican friends all go along with them because it is part of the big corporate agenda; they lobby Congress to change the rules, they then shut down their plants. In Burlington, VT, in Providence, RI, in Detroit, MI, and Toledo, OH, they shut down their plants, they move them to China, they obviously exploit the lowest paid workers they can get.

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

Again, to my colleagues on the other side of the aisle, do they know people who lost their jobs when a plant closed and went to Mexico? Do they know people who lost their health insurance when a plant shut down and went to China? Do they know people who had their homes foreclosed on because they lost their jobs and their health insurance and they have nowhere else to turn?

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

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

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

Let me put in a little bit of historical context. Eight years of President Clinton, January 20, 1993, to January 20, 2001. Those 8 years, 22 million private sector net job increase in this country. Eight years, from January 20, 2001, to January 20, 2009, 8 years of George

Bush, 1 million jobs created, not enough to even keep up with an increase in population.

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

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

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

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

In the end, it speaks volumes about Republican loyalties, loyalty to these large corporations that outsource jobs, no real loyalty to communities, no real loyalty to these small companies, and no real loyalty to workers. When a plant closes, we know the heartache it brings to the worker, to the families. We know the damage it does to communities as they lay off teachers and firefighters and mental health counselors and libraries and police officers and we know what it does to the wealth of our country and the standard of living of far too many people.

The question ultimately is: Whose side are you on? One thing for sure, it is clear who is on the side of working families in communities. That is why this legislation is so important. That is why we need to move on fixing our trade law and our tax law, so manufacturing jobs begin to move back to this country, and we can protect that industrial base that is so important for our national security and so important for the economic security of our families and of our communities.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

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

We see before us the faces of the people who have lost their jobs. We see the families, we hear the children, and so there is an urgency to do something. Every place I go in New York—it can be in upstate, an old manufacturing place; it can be on Long Island, supposedly the new economy—I hear about jobs leaving New York and leaving America and going overseas.

Then, there is some talk as if this is inexorable. It is not inexorable. That is what we are here to say tonight. We can do something to stop this, and stop it we must. Manufacturing used to be the backbone of our economy. It supported millions of families, was the staple of middle-class communities. It is no secret what happened.

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

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

Clay lost his job a year and a half ago because his company downsized, because they were sending jobs overseas. Here is what Clay does every day, every week. He wakes up Sunday night in upstate New York, drives down to Virginia. He looks for work in his field—he is a highly skilled tool and die worker—in Virginia. Tuesday, he goes to Washington, Baltimore; Wednesday, to Philadelphia, Allentown and others; Thursday, in the New York City area; and then goes back home Friday to find a job.

When he comes in the door Friday night, there is his wife and the kids, aged 2 to 14. You can bet a majority of them look at him and say: Well? These are not just statistics. There is a Clay in every community, many Clays in every community. That is just manufacturing.

Service sector jobs are going. I think of Dorothy, whom I met. Dorothy lost her job in the service industry, also because the company was moving jobs overseas. Dorothy told me she lost her job in June of 2008. I talked to her in January of 2010. She is about 50, did not have a family. Her life was her work. She loved her job. Here is what Dorothy told me. When you sit down and talk to people who have lost their jobs, little things stick with you. Here is what Dorothy told me. She said: Christmas morning I usually wake—she is a religious person. She goes to church and then goes to open the gifts with her nieces and nephews who are in her community.

She said: Do you know what I did this Christmas morning? I got up at 6 a.m. and I went online because I had this brilliant idea the night before, that maybe there would be jobs posted Christmas morning and no one else, everyone else would be too busy to go online and I would find it and get the job.

These are the people we are talking about. Whether it is in manufacturing or service, one of the most cited studies—and it is cited among conservatives—predicted that by 2015, 3.3 million U.S. service jobs will have moved offshore. So if you think you are safe because you are in a manufacturing job, forget it. No one is safe. No one. Whatever your income level is, whatever part of the country you are in, whatever industry you are in, no one is safe. By one estimate, about one-fourth of all U.S. jobs possess characteristics that make them susceptible to outsourcing within the next 10 to 20 years.

SHERROD BROWN, my colleague, talked about Ohio and New York. Fisher Price Toys, well known. Three locations in western New York—started there. In 1990, they stopped manufacturing in East Aurora and Holland. In 1997, they closed the plant in Medina. Two thousand jobs were lost when the three manufacturing plants closed. In 2001, they moved all their manufacturing to Mexico. Fisher Price still has a call center in East Aurora as well as its headquarters. Now they are considering moving the call center to India—both manufacturing and service.

Syracuse China. Famous. Founded in 1871. These are companies that go with the communities. They started and grew with them. It is in Geddes, a suburb of Syracuse. Onondaga Pottery Company is what the name was when it started.

If you went to a restaurant or a hotel, you were eating off Syracuse China, one of the region's oldest manufacturers. In 2008, after considerable downsizing, they closed their plant in Salina, 275 jobs. You can still get Syracuse China. It says ''Syracuse China'' on the plate or on the cup or on the saucer, but it is made in China, not in Syracuse.

Watson Pharmaceuticals, high-end company, Putnam County. Five hundred jobs, high-end jobs in Putnam County, a growing suburb, moved to India.

NXP Semiconductors. Again, you think: Oh, semiconductors, that is a

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

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

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

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

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

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

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

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

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

Our bill says that if you close down your operations here in the United States and reopen overseas, you no longer get to defer paying your taxes.

This should be a no-brainer.

It is perverse that American taxpayers provide benefits to firms that offshore jobs. By rewarding the companies that bring jobs back to America, this legislation puts the incentive back where it should be.

Some say that this provision puts U.S. companies who open foreign subsidiaries at a competitive disadvantage to U.S. companies that don't. But I say that is just plain false. Under current law, if you have two companies in Oswego that are both going to expand capacity and create 100 jobs, our Tax Code puts the company that chooses to keep the plant in Oswego at a competitive disadvantage over the company that chooses to move jobs to China. Our bill would level the playing field, so that companies that keep jobs here aren't penalized.

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

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

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

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

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

But every step counts.

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

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

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

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

Right now, no issue bothers Americans more than the nonstop flow of jobs overseas. With this bill, we have a chance to do something about it. We can help the American dream launch a comeback.

This is not a Democratic or a Republican issue. Every single one of us has factories that have closed. Families don't have it easy anywhere in the country.

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

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

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

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

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

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

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

It doesn't work unless we also lower the corporate tax rates to make them competitive worldwide; otherwise, if we keep the corporate tax rate the second highest in the world, we are just

going to chase huge amounts of jobs overseas. We are going to exacerbate the problem we are experiencing now.

I often wonder, why does it take the Chinese less than a year to build, say, a 500,000-square-foot building? I have experiences with shopping malls, just to put on an addition, and it takes years, the siting, the permitting, the regulation at the local level, the harassment businesses get. If you are a business or a corporation, the mentality is that you are evil, that you are not good. We should be embracing businesses for employing. What is a corporation? Last I heard, it is a group of individuals forming together to take advantage of protections and opportunities to expand and be competitive globally. Since when did being a corporation become a bad name in Washington? Am I missing something? How do you think we are going to get out of this economic mess? It is not going to be by hammering corporations and small mom-and-pop businesses and raising taxes in the middle of a 2-year recession. Are you kidding me? It makes no sense. High taxation, overregulation, reregulation, siting, permitting—take the municipal laws and regulations, couple them with State laws and regulations and Federal laws and regulations, then throw in the EPA just for the heck of it, or any other agency—the National Labor Relations Board; just pick an agency—then throw in the taxation levels at the city and town levels, State levels, the Federal level. Why do you get out of bed to turn on the lights? Are you kidding me? What is the incentive for people to actually keep jobs in the United States of America?

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

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

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

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

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

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

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

One corporation in Massachusetts, one of the biggest employers, has the market on a device that saves people's lives; hires, I guess, about 25,000 people throughout the world. If we do this, if we close this loophole, so-called, those jobs that were in Massachusetts in the United States are going. So let me see, it costs them $200 million because they are a medical device company. Then with the implementation of the health care bill, that is another $240 million. So that is $440 million. So where does that come from? R&D, employees, expansion? Why would they hire or even talk about hiring workers? Why?

That is just one effort, one thing that has been passed by this Congress and this administration to crush jobs. It crushes Massachusetts' businesses and jobs. We already had 98 percent of our people insured. Now we are getting lesser coverage, potentially longer lines, $½ trillion in Medicare cuts. Give me a break. There is no end in sight. The true numbers are coming out.

So why would a corporation or a mom-and-pop business or anybody who is even thinking of starting a business make that effort? Why would they even bother to open the door? There is the high cost of doing business, transportation costs, energy costs. They are concerned about cap and trade. They are concerned about maybe card check. They are concerned about a whole host of things that are keeping them on the sidelines. To take this and throw this in, forget about it.

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

Sometimes I am the 41st Senator. I am. When it comes to debt and spending and taxation, I am going to be the guy who is going to hold it up to make sure we don't go further in debt. When I got here, $1.95 trillion was the national debt. It is over $13.2 trillion now, in 7 months.

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

I am sorry, Mr. President. If I faint, will you save me? Thank you. I felt it was that important to come and make my point that I have been here about 7 months, and we have spent 10 days talking about jobs. Am I on a different planet or something? We should be talking about jobs every single day we are in session. We have spent 4 days, 3 or 4 days talking about the DISCLOSE Act. Give me a break. Do you think the 15 million, give or take, unemployed people throughout the country are concerned about the political content of political ads in the middle of an election season to give one party a tactical advantage or are they concerned about jobs? I know the people I speak to in Massachusetts and throughout the country want to talk about jobs.

How can we do it immediately? We can talk about the R&D tax credit and making that permanent. That 1099 bill—there is no reason we can't take that separately and put it forth in a bipartisan manner, clean up-and-down vote to protect the small businesses that are getting crushed through paperwork. There is no reason we should not be able to fix that. If we can't do that, we are in deep trouble. Accelerated depreciation, an across-the-board payroll tax reduction, a freeze on Federal hires, a freeze on Federal pay increases—I know it is not popular, but we have to look at these things. We have to look at entitlements. We have to collect moneys owed to us from contractors whom we overpaid or through fraud and abuse. Common sense, folks.

The thing I kind of get sad about—I know it wasn't popular in some circles for me to work on the financial reform bill. I got a lot of heat. But I looked at it, and I said: That doesn't include Fannie or Freddie. I know that. Do we

do nothing? We do nothing, right? We don't fix the regulations that have potentially been outdated for 50 years? We don't prohibit the closing of an entire industry overnight? We allow dentists and doctors and people who are going to finance the fillings in your teeth to be all encompassed in this thing? We are going to allow that? I am not going to allow it. I knew they had the votes anyway, but I took the time to work it through. I will tell you what. Since I have been here, that is the most proud I have been to work across the aisle with people for what we did—11 weeks, I think, working with every thinker and leader in this country when it dealt with financial issues.

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

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

I find out when it gets to the floor the amendment tree is filled. We were offered 20 amendments. That is not good enough. The process is about just scoring points, political points for November. I think the American people are fed up. They are tired of the rhetoric. They are tired of the finger pointing. They are looking for leadership. They are looking for somebody to say: Do you know what? Sometimes I am going to be the 41st Senator, but other times when it comes to getting this country moving, I am going to be the 60th Senator. I do not care if I get reelected or not, but while I am here, I am going to fight every single day to get this country moving again because we are in deep trouble, folks. And if you do not recognize it, by doing this piece of legislation—this is helpful? It is not helpful on its own. They say: Well, it is the first step.

Do not come to me with a first step. Come to me with a real plan, one that is comprehensive and can actually work and that can get some full support from your own party. Tell me you have every member of your party and I will say you are not being truthful. And then try to blame us as the party of no. With all due respect, since I have been here that has changed. But do you know how many times the majority party has voted with me? Zero. OK. So the party of no thing, I will tell you what, it is getting a little old—from the administration and the majority party, a little old. The numbers do not speak for themselves on that one.

I do not want to seem like a downer, Mr. President, because you are a good man. I respect you greatly, and I respect the people who spoke prior to me. Being here and being in this historic Chamber—are you kidding me? To be part of this process is like the greatest honor in the world. Aside from my marriage and the birth of my kids, this is it. And to think we are wasting this amazing opportunity, this amazing opportunity to get our country competitive again and to get us firing on all cylinders.

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

I get that the bill on the floor tonight is important to the majority party, and I respect that. I do. I get it. And pollsters, if you listen to them—which I tend to not—when they talk about companies that ship jobs overseas, I get that too. I understand that is bad. But it is what is in play now. If we change this one thing and not change and reduce the corporate tax rate to make them have an incentive to staying, it is not going to work.

I believe without a doubt this bill will cause real harm to the economy, and that job creators are united in their opposition to this legislation. I guess it is bad to make money in America, to pay the bills. I am in favor of corporations making money. I am in favor of the employees making money. I am in favor of free trade and free enterprise. I am also in favor of government regulation. It has its place. But the government needs to know when to get out of the way too and to stop overregulating. There is a role for government, absolutely. But government needs to know when to get out of the way, to let free enterprise, free market—you cannot regulate every single thing. You cannot do it.

I have gone around. I have tried to do my research. As I said, I have to. The major employers in Massachusetts whom I have talked to—and we have a tremendous amount, thank goodness. They are not hiring, but they are there. They are not going to expand because of health care and regulation and taxation and the uncertainty of the business world.

I remember I read it or I heard it, Senator BAUCUS, chairman of the Finance Committee, said he was worried that this bill would put the United States at a ''competitive disadvantage.'' Those words are his, not mine. This bill puts the United States at a ''competitive disadvantage.'' I believe that in my heart. Again, echoing his words, this bill will make American multinational companies less competitive. So it is not just Republican Senators. My colleague, whom I have great respect for on the other side of the aisle, is questioning also the wisdom of this legislation.

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

But I have to take exception to the statement that everybody is going overseas to take advantage of the tax rates.

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

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

I remember in my first caucus, when I went in, we were talking about it, and in the second caucus, the third caucus, the fourth caucus, and on and on. It is time to kind of come together to solve some real problems so tax planners and

families can kind of get their planning done. It is all about uncertainty. The reason we are in part of this mess is because of the financial uncertainty associated with the continued overregulation, the fear of more taxation, the fear of governmental interference, and the things we are trying to do. You can go on and on and on.

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

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

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

Mr. BROWN of Massachusetts. Six minutes 20 seconds.

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

The PRESIDING OFFICER. The Senator from Florida.

Mr. LEMIEUX. Mr. President, I thank my colleague from Massachusetts. Before I walked down to the floor tonight, I was watching him on television as he gave his remarks. I know he is more than a little bit under the weather. I thank him for his comments, and I thank him for his refreshing point of view because he comes here as a common man to try to do the best he can for the people of Massachusetts and the people of this country, and he knows in the short time he has been here that this system is broken. It is not working for American families. It is why Americans are so upset at their government.

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

When I visit businesses in Florida, as I often do, they tell me: Look, Senator, we do not know—actually, they call me GEORGE—we do not know, GEORGE, what is going to happen with our business. We do not know what this 2,000-page health care bill is going to do for our business. Are we going to hire one more employee and fall under some new fine or mandate? Is this financial regulation bill going to make business more expensive?

Small businesses, medium-sized businesses, and the few large businesses we have in Florida are frozen in their tracks. They will not hire. Worse still now, we have these tax cuts that are set to expire at the end of the year, and these businesses do not know what their taxes are going to be. Is their tax on their dividends going to go up? Are capital gains going to go up? Are they going to be paying a higher tax rate themselves because they file as if they are an individual because they are a subchapter S corporation? All of this uncertainty, all of this regulation, all of this taxing, too much debt, too much spending, too much borrowing freezes business in its tracks.

Now we have this Creating American Jobs and Ending Offshoring Act. I am new here too. I have been here about a year. But you can mark my words, when you hear a title like that, you better read the details. Boy, it sure sounds good. We want to end the offshoring of jobs. Who would not be for that? It sounds great. But the truth of it is, you are going to tax American corporations that are doing work in foreign countries. You are going to double tax them under this proposal and make them uncompetitive.

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

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

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

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

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

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

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

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

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

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

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

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

What we should do is reinstate the tax cuts to create certainty and not raise taxes in the middle of a recession. We should cut payroll taxes, we should approve the free-trade agreements, and we should focus every day we are here on jobs, not on campaign election laws,

not on this frolic, not on this detour but on jobs.

The American people are hurting. The people in my State are hurting badly. It is the worst recession that anyone can remember in Florida—the worst recession that anyone can remember. Unemployment is near 12 percent. In some cities it is 14 percent. When we figure in the underemployed, it is more than 20 percent—people who want to work but can't. Let's give them certainty. Let's not raise taxes on them, and let's make sure we have a level playing field for business so business can do what business does best, and that is create jobs.

With that, I see my time has expired. I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Thank you, Mr. President.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

So I am here today in strong support of the Creating American Jobs and

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

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

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

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

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

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

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

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

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

These tax loopholes that reward shipping jobs overseas have served as powerful incentives for companies to do so, and the numbers bear this out. According to our Bureau of Economic Analysis, 1999 to 2008, the number of U.S. employees of multinational companies declined by nearly 2 million—1.9 million jobs—out of America from multinational corporations. During the same period, these same companies increased their foreign employment by 2.4 million—2 million jobs out of this country and into foreign countries by American multinationals.

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

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

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

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

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

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

When we were growing up, the vast majority of the clothes we wore, the cars on our roads, and the food on our tables was all produced in the United States. That time has passed, that time is gone, that time is no more. Today, you would be hard-pressed to find items in a department store that were made domestically. Just go to Walmart—it is China-mart.

It is not just consumer goods either. Earlier this year, I had a meeting with an organization in Rhode Island that runs one of our major ports. Together with Senator REED, we were able to argue successfully for one of the TIGER grants in the economic recovery bill to help support this port so that they can grow jobs and add to the business that comes to Rhode Island. Part of what they need to do is purchase and install a big cargo crane, a port crane to offload the goods that come in and stack them so they can go onto trains and trucks and off into commerce. Guess what we discovered. We discovered that the Rhode Island organization didn't plan to buy the multimillion-dollar crane from an American company. Do you know why that is? That is because no American company any longer makes a port crane. No matter how much you want to buy a crane for an American port from an American company, you can't do it. We don't make them any longer. Something has gone badly wrong when you go to the biggest retail outlet in America and you can't buy American-made products—it is 90-plus percent from China—and when you go to a port and the crane that is unloading the Chinese goods cannot even be made in America any longer.

So we need to get to work. We need to support our American manufacturing base, and we need to take the wrinkles out of the Tax Code that make it advantageous for a company to move those jobs overseas, with taxpayer subsidies and competitive advantage against a company that is struggling at home trying to do the right thing and keep jobs here.

All we are asking of our colleagues is that they allow us to go to the bill and have this debate. When they come to the floor and object to this procedural motion, and they have nothing to say about this bill but only general bromides—I have had so many bromides that I am ready for some Bromo-Seltzer. They won't talk about this bill. The reason is that it is a good bill, and it would help American jobs, and they don't want anything to pass now. I urge them to change their minds. It is too important to let this opportunity pass.

I yield the floor.

I see my colleague from Alaska.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

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

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

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

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

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

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

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

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

Here is a startling reality—the data. We hear a lot from the other side, and they are kind of good sound bites and they get on the news and get coverage, but here is the data. This is how people should measure the success or failure of the policy we have had regarding this issue. That is why we need to pass this new legislation. Between February 2001 and February of 2009, almost 4.7 million manufacturing jobs were lost to overseas operations—4.7 million American jobs that were shipped overseas, like a parcel package. They are gone. Between 1999 and 2008, employment of foreign affiliates of American parent corporations grew from 7.8 million jobs to 10.1 million. That is an increase of 2.4 million jobs or 30 percent. Again, there are jobs that have been shipped off, and then these American companies then produce jobs overseas that could have been produced here in this country. But they have not done it.

To my friends across the aisle, many of you seem to have the impression that extending tax cuts for the wealthiest Americans will mean more jobs.

I just got back from a weekend in Alaska, for 2½ days moving through cities, talking with folks. I have to be honest. Only the people across the aisle are thinking that because that is not what I hear back home. They see through it. The 97 percent who will receive a tax break, a tax cut, middle-class Americans see that benefit. But the small 3 percent, 2.5 percent, they are not going to create jobs with that money, no question about it. As we all remember back in the Bush administration, President Bush decided to extend these tax cuts to the wealthiest Americans in the middle of the Iraq war. The thought was this would spur our economy and create new jobs.

Not surprisingly, the exact opposite happened. The national debt doubled. When President Obama was sworn into office, just before he was sworn in, over half a million jobs were lost just in that month alone before he was sworn in. We have to stop shipping jobs overseas and make it right in America.

I implore my colleagues on the other side to allow the debate, to allow us to proceed. It is not complicated.

I will end on this comment and say, when I was a mayor, anybody could bring any idea to the table. You could debate it. Sometimes we debated until midnight, sometimes we started the next day and debated some more, but ideas were debated.

We are recovering from an economic crisis. We are, at the moment, to look at some new options, new opportunities to have our businesses thrive and move forward. I ask our colleagues on the other side: Allow the debate to occur. As a small businessperson, as a Member of the Senate, I ask them to step to the table and let us move forward.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

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

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

We just passed a bill, and the President signed into law today, the Small

Business Jobs and Credit Act, a direct infusion to small businesses across the United States of America—$12 billion in tax breaks directly to small businesses.

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

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

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

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

No. 1, it would create a payroll tax holiday for companies that return jobs to the United States from overseas. What happens there is we would be providing relief from the employer's share of the Social Security payroll tax on wages paid to new U.S. employees performing services in the United States. It is as simple as that. We should have done it a long time ago. We could have taken these steps before, but our friends on the other side, just like they have blocked almost every job creation bill I can think of in the last 18 months, they blocked this over and over again.

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

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

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

In other words, we are trying to bring jobs back to the United States. We are not saying this bill is a magic wand that solves all our economic problems. One bill is not a recovery, but it is another forward step in furtherance of that objective to lift this economy completely out of the ditch it has been in for far too long.

We know this did not happen overnight. We know our economy did not fall into a ditch overnight. We also know the loss of manufacturing jobs did not just occur over the last several years. It occurred over many years. But if you just look at the last 9 or 10 years, I know, for example, in Pennsylvania we lost over 200,000 jobs. The best estimate is 207,000 jobs just in Pennsylvania that are categorized as manufacturing jobs. In some States it is a lot higher than that. My colleague from Michigan, Senator STABENOW, was remarking earlier that Michigan had lost over 1 million jobs in that time period, just manufacturing jobs.

We know the unemployment rate across the country is intolerably too high. In our State, fortunately, it is below 10. A lot of States cannot say that. But 9.3 or 9.5 roughly in Pennsylvania over many months equates to almost 600,000 people. It got as high as 592,000 people out of work. Now we are down a little but down to only 585,000 people out of work.

I went across Pennsylvania during the latter part of the summer. In 4 weeks, I was in some 31 counties, most of them small and rural counties, most of them counties that have a lot of small towns in them and a lot of geography, a lot of space. Whether you go to a county such as Potter County, which has less than 20,000 people in it and almost 100 percent rural, their unemployment rate is 11.5 percent.

Philadelphia, the biggest city and biggest county as well, has an unemployment rate of 12 percent now. More than 75,000 people are out of work in the city of Philadelphia.

Whether you go to a small town or rural community or whether you go to the biggest city in our State, the unemployment rate is far too high.

It is my obligation to not just say the Recovery Act created 3 million jobs. It may not have been perfect or popular, but it created a lot of jobs. But that is not enough. That is why we supported the HIRE Act. That is why we supported the Small Business Jobs and Credit Act. The community bankers, by the way—this is not a number from a Democratic office—tell us it will create 500,000 jobs.

What if they are off by a big number? What if it is only 400,000? My goodness, if we can pass any bill that will create 400,000 jobs, that will be remarkable. If they are right, it will be more than that. It will be 500,000 jobs.

We are pushing and pushing to move this economy fully out of the ditch, to have a full and robust recovery because we know what happens when the economy recovers. We saw it in the late 1990s, during President Clinton's two terms in office. We not only had recovery but tremendous growth. We were investing in priorities such as health care and education and the skills of our workers for the future for a stronger economy. We had not only eliminated the deficit—the Congress and the President at the time—but the surplus was $236 billion when President Clinton left office. He handed that to President Bush.

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

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

You cannot lament the movement of jobs overseas and then just keep voting the way some are voting against tax policies to keep jobs in America. You cannot lament job loss and vote against, whether it is a Recovery Act, the HIRE Act or the Small Business Jobs and Credit Act. You cannot say you are in favor of helping small business and then turn around the next day and vote against $12 billion in tax cuts for small business.

You cannot say you support small communities and the small banks in America and then vote against a loan fund that will help those very same small banks across America help their small businesses to invest and grow and hire more people and help us recover.

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

Someone over there might say: I am not going to vote for this bill for this or that reason. They have that right. It is hard to say I do not like the fact we have been shipping jobs overseas and have tax policies that incentivize that and we have other policies we can put in place to change that and to turn that around and move in the direction

of helping taxpayers keep jobs here and pulling jobs back from overseas, you cannot say all that, make a big speech on it and then vote the next day and say: I am not only going to vote against the bill but vote against any debate on the bill. That is a pretty hard argument to make. I am not sure there are many people who can make it with a straight face and with any degree of integrity.

We will see what they do. We will see if they are going to vote against debating obviously one of the most important issues for people, stopping jobs from going overseas. I hope the other side does not do what it did with the small business bill and say it supports small businesses and then vote against tax cuts and vote against community banks to help our small businesses.

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

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

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

Robust industry has always been the hallmark of American competitiveness.

It once was that you could see the ''Made in America'' logo on the back of a t-shirt, on a shoe, a dress, a coat, and knew that you had a product that was both high quality and safe.

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

Examples are the iconic little red wagon company, ''Radio Flyer'' eliminated half its workforce in Chicago and moved its manufacturing operations to China in 2004; Levi Strauss cut its workforce by roughly 20 percent, closing factories across the country and outsourcing its manufacturing work to Latin America in 2002; Motorola has laid off over 40,000 workers and invested more than $3 billion in China in 2001; and; recently, the Whirlpool Corporation announced it will close a refrigerator plant in Evanston, Indiana, resulting in the loss of hundreds of jobs. Whirlpool has plans to open a new plant in Mexico.

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

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

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

And this legislation is a beginning.

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

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

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

But we should not be willing to cede that essential part of our American identity. We must find a way to ensure that American ingenuity creates American jobs.

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

Thirty years ago, the founder of Sony and the head of the august Keidanren in Japan said to me: ''When America ceases to be a manufacturing power, she will become a second-rate power.''

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

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

But offshoring isn't just a problem for factory workers, it is having a growing impact on the service sector as well. Today, even highly skilled workers can no longer rely on their education or training to obtain a job or have any measure of job security. It is estimated that 1.2 million white-collar jobs were sent offshore between 2003–2008; the Bureau of Labor Statistics estimates that 31 percent of service-sector jobs are currently at risk of being sent overseas; at the current rate, 25 percent of all U.S. jobs may be in danger of being shipped overseas in the next 10 years, from the CRS.

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

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

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

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

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

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

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

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

Today, I ask all of us in the Senate to do the same.

The provisions included in the Creating American Jobs and Ending Offshoring Act are a positive first step.

However, to profoundly impact the future of American industrial competitiveness, we cannot rely solely on carrots and sticks.

We as a government must lay a stable foundation upon which American business ingenuity can foster top down growth. And the business community must focus not only on the bottom line. It must rededicate itself to the pursuit of a thriving American economy and labor force.

Bottom line: These are the things we must do if we are to maintain America's position as the driving force of the global economy. This legislation is a good first step down this road.

Mr. CARDIN. Mr. President, the Senate will have a cloture vote shortly on the motion to proceed to S. 3816. I hope that we will overcome a procedural roadblock to the Senate considering this legislation and proceed to the bill and pass it. While the National Bureau of Economic Research, NBER, has determined that the recession is over, it is clear that we have much more work to do getting Americans back to work. According to NBER, the recession lasted 18 months, which makes it the longest of any recession since World War II.

It is important to note that NBER did not conclude the economy has returned to operating at normal capacity. Rather, NBER determined only that the recession ended in June 2009 and a recovery began in that month. According to NBER:

(E)conomic activity is typically below normal in the early stages of an expansion, and it sometimes remains so well into the expansion.

Aggregate employment frequently reaches its trough after the NBER trough for overall ''economic activity'' and the 2007–2009 recession is no exception. That is why this jobs bill is critically important. The economy is still fragile; everyone knows that. So let's do something about it.

S. 3816 has incentives to create jobs here in America and disincentives to moving American jobs overseas.

Earlier this month, the U.S. Department of Labor certified a Trade Adjustment Assistance, TAA, petition brought on behalf of human resources personnel at Hewlett-Packard in 10 different States, including Maryland—Ellicott City—that have seen their jobs shipped to Panama. Now, if H-P employees have questions about their pay or their leave or their benefits, they have to call Panama. It is exactly that type of shipping jobs offshore that we need to prevent.

S. 3816 removes tax incentives that allow companies such as H-P to eliminate jobs here, outsourcing that work with the products or services consumed in the U.S. market.

Just since the beginning of 2007, the Department of Labor has certified 50 TAA petitions involving laid-off workers who live in Maryland.

In many cases, the firms involved in these certifications had U.S. tax incentives to ship jobs overseas. S. 3816 helps to eliminate those incentives.

To encourage businesses to create jobs here in the United States, the bill allows businesses to skip the employer share of the Social Security payroll tax for up to 2 years on wages paid to new U.S. employees performing services in the United States. To be eligible, businesses have to certify that the U.S. employee is replacing an employee who had been performing similar duties overseas.

This payroll tax holiday is available for workers hired during the 3-year period beginning September 22, 2010. The Social Security trust fund will be made whole from general revenues, a provision that costs $1.09 billion over 10 years.

The bill eliminates subsidies that U.S. taxpayers provide to firms that move facilities offshore. It prohibits a firm from taking any deduction, loss, or credit for amounts paid in connection with reducing or ending the operation of a trade or business in the U.S. and starting or expanding a similar trade or business overseas.

This provision raises $277 million over 10 years.

The bill would not apply to any severance payments or costs associated with outplacement services or employee retraining provided to any employees who lose their jobs as a result of the offshoring.

S. 3816 also ends the Federal tax subsidy that rewards U.S. firms for moving their production overseas. Under current law, U.S. companies can defer paying U.S. tax on income earned by their foreign subsidiaries until that income is brought back to the United States. This is known as ''deferral.''

Deferral has the effect of putting these firms at a competitive advantage over U.S. firms that hire U.S. workers to make products here in America.

The bill repeals deferral for companies that reduce or close a business in the U.S. and start or expand a similar business overseas for the purpose of importing their products or services for sale in the United States. U.S. companies that locate facilities abroad in order to sell their products overseas are unaffected by this proposal.

Ending deferral raises $92 million over 10 years.

I think there is a huge need and a great deal of merit in considering a bill to encourage American firms to keep their plants and factories here in America and to hire American workers.

Too many Americans are looking for work and can't find jobs. The recession hasn't ended for them. I hope the Senate will move forward on legislation that will keep jobs in America and put Americans back to work and begin to put this terrible recession behind us. It is time to ship American goods and services—not American jobs—overseas.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BEGICH. Mr. President, the score is 10 to 0.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

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

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

INTELLIGENCE AUTHORIZATION ACT

Mrs. FEINSTEIN. Mr. President, the Congress is now close to passing and enacting an intelligence authorization bill for the first time since December 2004. Pending at the Senate desk is House bill H.R. 2701, the Intelligence Authorization Act for Fiscal Year 2010, which the House passed on February 26, 2010.

On behalf of Senator BOND and myself, I have filed an amendment to this House bill, and have asked the majority leader to request unanimous consent that the amendment, in the nature of a substitute, be approved and that the bill be sent back to the House for its final passage.

For the benefit of my colleagues, I would like to describe the amendment and discuss why the passage of this legislation is of great importance to the Intelligence community and for oversight of intelligence.

In all but three respects, this amendment is identical to Senate bill S. 3611, which the Senate passed in August by unanimous consent. That bill had been negotiated with the House Permanent Select Committee on Intelligence and had the support of the administration. However, the House did not act on that bill. Instead, last week, the House sent its legislation to the Senate for consideration.

Per agreement with the House and the executive branch, I am therefore introducing this amendment, which replaces the text of the House bill with the previous Senate bill, with the three changes as follows:

The first change is necessary given that fiscal year 2010, the year for which this legislation was first written, ends later this week. The legislation I have offered today therefore does not include a classified annex that describes authorized funding levels for the intelligence community. The amendment text omits references to the classified annex, as well as other provisions that were specific to fiscal year 2010, that were present in S. 3611. This is reflected through the deletion of six provisions in S. 3611: sections 101, 102, 103, 104, 201, and 348. The amendment includes a new section 101, which is being included at the request of the Office of the Director of National Intelligence. This section makes clear that all funds appropriated, reprogrammed, or transferred for intelligence or intelligence-related activities in fiscal year 2010 may be obligated or expended. This provision is necessary to meet the terms of section 504(a) of the National Security Act of 1947, 50 U.S.C. § 414.

This legislation also amends section 331 from the version of the bill previously passed by the Senate concerning notification procedures. The amendment adds text to ensure that in the case of a limited notification of a covert action to the House and Senate leaders and chairmen and ranking members of the two intelligence committees—the so-called ''Gang of

Eight''—in place of the full membership of those committees, the basis of the limited notification will be reviewed in the executive branch within 180 days and reasons for continuation of the limited notification will be submitted to the Gang of Eight.

The amendment also adds text to require that in the case of a limited notification, the President shall provide to all members of the intelligence committees a ''general description'' of the covert action. This implements the idea first described by the Senate Intelligence Committee in 1980 that the limited notification procedure is to protect in extraordinary cases certain sensitive aspects of an intelligence activity; the purpose of the authority is not to shield entire intelligence programs from the oversight of the full intelligence committees.

Recent legislation from the Select Committee on Intelligence has included similar provisions to the requirement to provide to all committee members a ''general description.'' The committee's bill, S. 1494, which the Senate passed unanimously in September 2009, included a similar provision, but the version of the bill passed in August 2010, S. 3611, did not.

Of note, the legislative language in this amendment makes clear that the general description of the covert action is to be provided by the President to all members of the committees, consistent with the reasons for not yet fully informing all members of the intelligence committees. The administration agrees that this gives the President sufficient flexibility in extraordinary circumstances to protect sensitive national security information.

Finally, the amendment I am offering includes a new section, section 348, on access by the Comptroller General to the information of elements of the intelligence community. Both S. 1494 and H.R. 2701 included sections on audits of intelligence community elements by the Government Accountability Office, GAO. No GAO provision was included in S. 3611 because, at the time that S. 3611 was reported and then acted on by the Senate, no agreement had been reached on a provision that would be acceptable to both the administration and the Congress.

Section 348 represents a compromise that the Congress and the administration can support. It requires the Director of National Intelligence, DNI, to issue a directive on GAO access. While the directive shall be issued following consultation with the Comptroller General, the amendment is clear that this is to be the DNI's directive. It is the DNI who has the responsibility to craft a directive that is consistent with existing law, both as regards the authority of the Comptroller General under title 31 of the United States Code and the provisions of the National Security Act. The directive shall be provided to the Congress before it goes into effect and the appropriate committees of the Congress can then take whatever legislative or oversight actions they deem appropriate.

The Department of Defense has issued a directive governing GAO access to Defense special access programs. This directive is regarded as having resolved successfully the issues that the Department and GAO had previously encountered. As the DNI carries out the duties of this section, it will be important for him to be mindful of the manner in which individual departments with intelligence components have established procedures governing access by GAO. This is true for the Department of Defense as well as other Departments, such the Department of Homeland Security and its intelligence component, the Office of Intelligence and Analysis. We expect that the DNI will coordinate closely with the heads of such departments in order to ensure that the DNI's directive resolves outstanding issues without disrupting GAO's working relationships with such departments.

As written, this section requires the Director of National Intelligence to submit this directive to ''the Congress.'' The intent of this provision is to have this directive broadly available, in unclassified form or classified form as the case may be, to those committees with jurisdiction over the DNI, the 16 intelligence entities in the intelligence community, the departments in which those agencies reside, and the GAO.

There are additional technical, typographical and conforming changes included in this legislation from S. 3611, the intelligence bill passed by the Senate in August 2010. This includes a change in section 322, the business system transformation section, in several places where an action was to be taken by September 30, 2010. Those actions are now required to be taken within 60 days after enactment.

In all other respects, the Feinstein-Bond amendment consists of exactly what the Senate has already passed by unanimous consent. The legislative history of S. 3611 is fully applicable to the provisions of this amendment that are carried over from S. 3611. This legislative history includes the committee report, S. Rep. No. 111–223, and the floor statements and letters placed in the RECORD on Senate passage of S. 3611, see 156 Cong. Rec. S6795–6799—daily ed., August 5, 2010. S. Rep. No. 111–223 has a detailed section-by-section description of the provisions of S. 3611, including a description of the reconciliation of House and Senate provisions from H.R. 2701, as it passed the House, and S. 1494.

I received today a letter from the general counsel in the Office of the Director of National Intelligence, Mr. Robert Litt, indicating that ''the President's senior advisors would recommend that he sign this bill if it is presented for his signature.'' I will ask that this letter be printed in the RECORD.

As I noted at the outset, there has not been an intelligence authorization act enacted in nearly 6 years. Prior to December 2004, there had been such a bill every year since the creation of the intelligence committees in the late 1970s.

It is vitally important for the intelligence committees to pass an authorization bill this week. Failure to enact an authorization bill weakens congressional oversight and it denies the intelligence community appropriate updates in the law.

I would like to take a moment to recognize some individuals who have devoted enormous time and effort to reaching this point. First, Senator KIT BOND, the vice chairman of the committee, who has been fighting for this legislation with me in a completely bipartisan way since we began at the beginning of last year. Second, the members of the Intelligence Committee who have contributed important provisions in the bill, and have supported our efforts to keep the bill moving even in some cases where their provisions had to be dropped.

And finally, the staff, who have drafted this bill three separate times and conducted negotiations with the House Permanent Select Committee on Intelligence, other offices in the House, the Office of the Director of National Intelligence, and the White House for more than a year. I would like to commend and thank my counsels: Mike Davidson, Christine Healey, and Alissa Starzak for their work. I thank as well Senator BOND's counsels, Jack Livingston and Kathleen Rice.

While there is no classified annex to authorize funding levels in this bill, I appreciate the work begun by Lorenzo Goco and continued by Peggy Evans in putting together the annex that accompanied the intelligence authorization bills that passed the Senate last September and this August.

Finally, I appreciate the work of Tommy Ross, national security adviser to Majority Leader HARRY REID, for his substantial efforts to make sure that the House and the executive branch remained engaged in the negotiations over this bill.

I urge my colleagues to support this Senate amendment to the House bill. If we are able to reach unanimous consent on this measure, it will go back to the House for final passage and presentment to the President. I am hopeful that we can accomplish this prior to recessing later this week for the November elections, and urge support.

Mr. President, I ask unanimous consent to have printed in the RECORD the letter from Mr. Robert Litt to which I referred.

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

OFFICE OF THE DIRECTOR
OF NATIONAL INTELLIGENCE,
Washington, DC, September 27, 2010.

Hon. DIANNE FEINSTEIN,
Chairman, Select Committee on Intelligence, U.S. Senate, Washington, DC.

Hon. CHRISTOPHER BOND,
Vice Chairman, Select Committee on Intelligence, U.S. Senate, Washington, DC.

DEAR MADAM CHAIRMAN AND VICE CHAIRMAN BOND: On June 10, 2010, the Director of OMB wrote to inform you that, on the assumption that there would be no material changes to the S. 3611, the Intelligence Authorization Act for Fiscal Year 2010, the President's senior advisors would recommend he sign the bill. The Administration has reviewed the proposed amendment to the Intelligence Authorization Act for Fiscal Year 2010, embodied in the draft amendment in the nature of a substitute to H.R. 2701 provided to us on September 24, 2010. There are two significant changes from S. 3611 passed by the Senate on August 5, 2010 relating to the Government Accountability Office (GAO) and congressional notification. Earlier provisions on these issues were subject to a veto threat. However, based on our interpretation of the changes, which I have outlined below, the President's senior advisors would recommend that he sign this bill if it is presented for his signature.

The proposed Senate amendment includes a new provision that would require the Director of National Intelligence to issue a directive, in consultation with the Comptroller General, governing access of the Comptroller General to information in the possession of an Intelligence Community element. Nothing in this provision changes the underlying law with respect to GAO access to intelligence information. We interpret this provision to provide the DNI with wide latitude when developing the directive to ensure that it conforms with (1) the statutory provisions governing GAO's jurisdiction and access to information; (2) the intelligence oversight structure embodied in the National Security Act; and (3) relevant opinions of the Office of Legal Counsel of the Department of Justice.

The second significant change relates to the provision that alters the current congressional notification framework. It is important to note at the outset that the Administration has already indicated that, with respect to the requirement to provide ''the legal authority under which [an] intelligence activity is being or was conducted,'' we construe that requirement only to require that the Executive Branch provide the committee with an explanation of the legal basis for the activity; it would not require disclosure of any privileged information or disclosure of information in any particular form.

The proposed amendment would significantly change the earlier version of this provision by requiring that the Executive Branch provide all congressional intelligence committee members who do not receive a finding or notification a ''general description regarding the finding or notification, as applicable, consistent with the reasons for not yet fully informing all members of such committee.'' The Administration has previously threatened to veto the Intelligence Authorization Bill over a congressional notification provision that contained similar language. This provision, however, differs from the earlier provision because the requirement to provide a ''general description'' is limited to a description that is ''consistent with reasons for not yet fully informing all members of such committee.'' We interpret this new language as providing sufficient flexibility to craft a description that the President deems appropriate, based on the extraordinary circumstances affecting vital interests of the United States resulting in the limited notification, and recognizing the President's authority and responsibility to protect sensitive national security information in the context of the notice and general description requirement.

We wish to confirm that you understand and agree with these interpretations. We would prefer to reduce this interpretation to writing for inclusion in the amendment itself, and will work with you to that end; otherwise, we wish to ensure that you agree with our interpretation of these provisions. With these understandings, the President's senior advisors would recommend that he sign this bill if it is presented for his signature.

The Office of Management and Budget advises that, from the standpoint of the Administration's Program, there is no objection to the submission of this letter.

Sincerely,

ROBERT S. LITT,
General Counsel.

NOTICES OF INTENT TO OBJECT

Mr. GRASSLEY. Mr. President, I intend to object to proceeding to H.R. 4862, a bill that amends the Immigration and Nationality Act with regard to naturalization authority. H.R. 4862 would permit Members of Congress to administer the oath of allegiance to applicants for naturalization. I object to the bill because, according to administration officials, it would require Members of Congress to administer the oath of allegiance only at times determined by the Secretary of Homeland Security, notwithstanding the Senate Calendar or the legislative work that is required by Members of Congress. We need to understand what exactly this bill allows or requires and not just rush it through in the waning hours and minutes of this Congress.

Mr. President, I also intend to object to proceeding to the nomination of Norm Eisen to be Ambassador to the Czech Republic at the Department of State for the following reasons.

I object to the proceeding to the nomination because of Mr. Eisen's role in the firing of the inspector general of the Corporation for National and Community Service, CNCS, and his lack of candor about that matter when questioned by congressional investigators. The details of Mr. Eisen's role in the firing and his misrepresentations about that matter are detailed in the Joint Minority Staff Report of the House Committee on Government Reform and the Senate Finance Committee, dated November 20, 2009.

HONORING OUR ARMED FORCES

CAPTAIN DALE A. GOETZ

Mr. BENNET. Mr. President, it is with a heavy heart that I rise today to honor the life and heroic service of Captain Dale A. Goetz. Captain Goetz, assigned to the 4th Infantry Division, based at Fort Carson, CO, died on August 30, 2010, of injuries sustained when an improvised explosive device detonated near his vehicle. Captain Goetz was serving in support of Operation Enduring Freedom in the Arghandab River Valley, Afghanistan. He was 43 years old.

A native of White, SD, Captain Goetz graduated in 1995 from Marantha Baptist Bible College in Watertown, WI, with a bachelor's degree. After serving in White for several years as a pastor, Captain Goetz enlisted in the Army in 2004 and served tours in Japan, Iraq and Afghanistan—all with decoration.

During his years of service, Captain Goetz distinguished himself through his courage, dedication to his soldiers, and unremitting devotion to his faith. His skillful ministry comforted troops and made them more effective in the field, and he never hesitated to engage and counsel others who held beliefs different than his own.

Captain Goetz worked on the front lines of battle, serving in the most dangerous areas of Iraq and Afghanistan. He is remembered by those who knew him as a consummate professional with an unending commitment to excellence. His family remembers him as a dedicated husband and as a loving father to his three children.

Mark Twain once said, ''The fear of death follows from the fear of life. A man who lives fully is prepared to die at any time.'' Captain Goetz's service was in keeping with this sentiment—by selflessly putting country first, he lived life to the fullest. He lived with a sense of the highest honorable purpose.

At substantial personal risk, he braved the chaos of combat zones throughout Iraq and Afghanistan. And though his fate was uncertain, he pushed forward, counseling our soldiers and promoting the ideals we hold dear. For his service and the lives he touched, Captain Goetz will forever be remembered as one of our country's bravest.

To his wife Christina, his sons Landon, Caleb, and Joel, and his entire family—I cannot imagine the sorrow you must be feeling. I hope that, in time, the pain of your loss will be eased by your pride in Dale's service and by your knowledge that his country will never forget him. We are humbled by his service and his sacrifice.

STAFF SERGEANT CASEY J. GROCHOWIAK

Mr. President, it is with a heavy heart that I rise today to honor the life and heroic service of SSG Casey J. Grochowiak. Sergeant Grochowiak, assigned to the 4th Infantry Division, based in Fort Carson, CO, died on August 30, 2010, of injuries sustained when an improvised explosive device detonated near his patrol. Sergeant Grochowiak was serving in support of Operation Enduring Freedom in Malajat, Afghanistan. He was 34 years old.

A native of San Diego, CA, Sergeant Grochowiak graduated from Horizon Christian Fellowship Academy, where he met Celestina, his future wife, whom he married in 1995. After several years working in the construction industry, Sergeant Grochowiak changed direction to commit his life to defending his country. He enlisted in the

Army in 2000, serving two tours in Iraq and two tours in Afghanistan—all with decoration.

During nearly 11 years of service, Sergeant Grochowiak distinguished himself through his courage, dedication to duty, and absolute commitment to his troops. Despite having received a medical waiver for his last tour in Afghanistan, Sergeant Grochowiak shipped out and fought on anyway, citing his obligation to protect his young soldiers.

Sergeant Grochowiak worked on the front lines of battle, serving in the most dangerous areas of Iraq and Afghanistan. He is remembered by those who knew him as a consummate professional with an unending commitment to excellence. His family remembers him as a dedicated son, husband, and as a loving father to his two children.

Mark Twain once said, ''The fear of death follows from the fear of life. A man who lives fully is prepared to die at any time.'' Sergeant Grochowiak's service was in keeping with this sentiment—by selflessly putting country first, he lived life to the fullest. He lived with a sense of the highest honorable purpose.

At substantial personal risk, he braved the chaos of combat zones throughout Iraq and Afghanistan. And though his fate on the battlefield was uncertain, he pushed forward, protecting America's citizens, her safety, and the freedoms we hold dear. For his service and the lives he touched, Sergeant Grochowiak will forever be remembered as one of our country's bravest.

To Edward and Barbara, Sergeant Grochowiak's parents, Celestina, his wife, Matia and Deegan, his children, and his entire family, I cannot imagine the sorrow you must be feeling. I hope that, in time, the pain of your loss will be eased by your pride in Casey's service and by your knowledge that his country will never forget him. We are humbled by his service and his sacrifice.

SPECIALIST FAITH R. HINKLEY

Mr. President, it is with a heavy heart that I rise today to honor the life and heroic service of SPC Faith R. Hinkley. Specialist Hinkley, assigned to the 502nd Military Intelligence Battalion, based in Fort Lewis, WA, died on August 7, 2010, from wounds sustained during a firefight. Specialist Hinkley was serving in support of Operation Iraqi Freedom in Iskandariya, Iraq. She was 23 years old.

A native of Monte Vista, CO, Specialist Hinkley enlisted in the Army in 2007, much to the surprise of her friends and family. Having completed 1 year of classes at the University of Colorado in Colorado Springs, Specialist Hinkley changed course and became the family's fourth generation to serve in the military.

During her nearly 3 years of service, Specialist Hinkley distinguished herself through her courage, dedication to duty, and exceptional intelligence. Commanders recognized her extraordinary bravery and talent. In fact, on the day of her passing, Specialist Hinkley had just been promoted.

Specialist Hinkley worked on the front lines of battle, serving in the most dangerous areas of Iraq. She is remembered by those who knew her as a consummate professional with an unending commitment to excellence. Her family remembers her as a dedicated daughter who loved to serve her country. Her friends remember her loyalty, her willingness to listen, and her lifelong involvement in the community. From an early age, as a student in Monte Vista, Specialist Hinkley's talents were always on display as a mentor to younger girls.

Mark Twain once said, ''The fear of death follows from the fear of life. A man who lives fully is prepared to die at any time.'' Specialist Hinkley's service was in keeping with this sentiment—by selflessly putting country first, she lived life to the fullest. She lived with a sense of the highest honorable purpose.

At substantial personal risk, she braved the chaos of combat zones throughout Iraq. And though her fate on the battlefield was uncertain, she pushed forward, protecting America's citizens, her safety, and the freedoms we hold dear. For her service and the lives she touched, Specialist Hinkley will forever be remembered as one of our country's bravest.

To David and Annavee, Specialist Hinkley's parents, Matthew, her brother, and her entire family, I cannot imagine the sorrow you must be feeling. I hope that, in time, the pain of your loss will be eased by your pride in Faith's service and by your knowledge that her country will never forget her. We are humbled by her service and her sacrifice.

STAFF SERGEANT KEVIN J. KESSLER

Mr. President, it is with a heavy heart that I rise today to honor the life and heroic service of SSG Kevin J. Kessler. Sergeant Kessler, assigned to the 4th Infantry Division, based in Fort Carson, CO, died on August 30, 2010, of injuries sustained when an improvised explosive device detonated near his military vehicle. Sergeant Kessler was serving in support of Operation Enduring Freedom in the Arghandab River Valley, Afghanistan. He was 32 years old.

A native of Canton, OH, Sergeant Kessler enlisted in the Army in 2004, eager to serve his country. In 1996, he graduated from East Canton High School. After spending several years as a truck driver, Sergeant Kessler decided to commit his life to military service. He served three tours of duty: two in Iraq and one in Afghanistan, and all with decoration.

During his 6 years of service, Sergeant Kessler distinguished himself through his courage, skillful leadership, and perhaps most importantly, an unflagging dedication to his troops. Sergeant Kessler's unyielding sense of duty was heightened still by the brave efforts of the soldiers under his command.

Sergeant Kessler worked on the front lines of battle, serving in the most dangerous areas of Iraq and Afghanistan. He is remembered by those who knew him as a consummate professional with an unending commitment to excellence. His family remembers him as a dedicated son, husband, and as a proud expectant father. They remember that, from an early age, he loved football and cheered for his favorite teams, the Denver Broncos and the Cleveland Browns.

Mark Twain once said, ''The fear of death follows from the fear of life. A man who lives fully is prepared to die at any time.'' Sergeant Kessler's service was in keeping with this sentiment—by selflessly putting country first, he lived life to the fullest. He lived with a sense of the highest honorable purpose.

At substantial personal risk, he braved the chaos of combat zones throughout Iraq and Afghanistan. And though his fate on the battlefield was uncertain, he pushed forward, protecting America's citizens, her safety, and the freedoms we hold dear. For his service and the lives he touched, Sergeant Kessler will forever be remembered as one of our country's bravest.

To Sergeant Kessler's father and stepmother, Lawrence and Sue, his mother and stepfather, Kristine and Rodney, his wife, Adrian, and his entire family—I cannot imagine the sorrow you must be feeling. I hope that, in time, the pain of your loss will be eased by your pride in Kevin's service and by your knowledge that his country will never forget him. We are humbled by his service and his sacrifice.

PRIVATE FIRST CLASS DIEGO M. MONTOYA

Mr. President, it is with a heavy heart that I rise today to honor the life and heroic service of PFC Diego M. Montoya. Private Montoya, assigned to the 89th Military Police Brigade, based in Fort Hood, TX, died on September 2, 2010, of injuries sustained from indirect fire. Private Montoya was serving in support of Operation Enduring Freedom in Laghman Province, Afghanistan. He was 20 years old.

A native of Texas, Private Montoya graduated in 2009 from Taft High School in San Antonio. He was an active participant in the school's ROTC program, and he always looked forward to the day when he could finally wear a service uniform. Private Montoya enlisted in the Army after graduation, and he deployed for Afghanistan in April 2010.

During his 13 months of service, Private Montoya distinguished himself through his dedication to duty and extraordinary strength of character. Even as an ROTC student in San Antonio, Private Montoya's instructor recognized his remarkable maturity and unwavering loyalty to his classmates, family and friends. These characteristics foreshadowed his excellence as a soldier.

Private Montoya worked on the front lines of battle, serving in the most dangerous areas of Afghanistan. He is remembered by those who knew him as a consummate professional with an unending commitment to the uniform. His family remembers Private Montoya's courage as a soldier, but also his warm heart and willingness to do anything to help those close to him.

Mark Twain once said, ''The fear of death follows from the fear of life. A man who lives fully is prepared to die at any time.'' Private Montoya's service was in keeping with this sentiment—by selflessly putting country first, he lived life to the fullest. He lived with a sense of the highest honorable purpose.

At substantial personal risk, he braved the chaos of combat zones throughout Afghanistan. And though his fate on the battlefield was uncertain, he pushed forward, protecting America's citizens, her safety, and the freedoms we hold dear. For his service and the lives he touched, Private Montoya will forever be remembered as one of our country's bravest.

To his parents, his brothers and sisters, and his entire family, I cannot imagine the sorrow you must be feeling. I hope that, in time, the pain of your loss will be eased by your pride in Diego's service and by your knowledge that his country will never forget him. We are humbled by his service and his sacrifice.

STAFF SERGEANT MATTHEW J. WEST

Mr. President, it is with a heavy heart that I rise today to honor the life and heroic service of SSG Matthew J. West. Sergeant West, assigned to the 71st Ordnance Group, based in Fort Carson, CO, died on August 30, 2010, of injuries sustained when an improvised explosive device detonated near his military vehicle. Sergeant West was serving in support of Operation Enduring Freedom in the Arghandab River Valley, Afghanistan. He was 36 years old.

A native of Gaylord, MI, Sergeant West graduated from Northern Michigan University with a bachelor's degree in 1997. After returning home for several years, Sergeant West enlisted in the Army in 2004 and served three tours of duty: two in Afghanistan and one in Iraq, and all with decoration.

During his 6 years of service, Sergeant West distinguished himself through his courage, dedication to duty, and willingness to take on one of the most dangerous and skillful jobs in the Army—defusing bombs. Even as a student at Gaylord High School, Sergeant West exhibited this same extraordinary character by assuming any role needed of him on the football field. Although he was one of the team's smallest players, Sergeant Kessler never hesitated to punch above his weight, even when the coach put him on the offensive line.

Sergeant West worked on the front lines of battle, serving in the most dangerous areas of Iraq and Afghanistan. He is remembered by those who knew him as a consummate professional with an unending commitment to excellence. His family remembers him as a dedicated son, husband, and as a loving father to his three children. They remember his warm nature and broad smile.

Mark Twain once said, ''The fear of death follows from the fear of life. A man who lives fully is prepared to die at any time.'' Sergeant West's service was in keeping with this sentiment—by selflessly putting country first, he lived life to the fullest. He lived with a sense of the highest honorable purpose.

At substantial personal risk, he braved the chaos of combat zones throughout Iraq and Afghanistan. And though his fate on the battlefield was uncertain, he pushed forward, protecting America's citizens, her safety, and the freedoms we hold dear. For his service and the lives he touched, Sergeant West will forever be remembered as one of our country's bravest.

To John and Marcia, Sergeant West's parents, Carolyn, his wife, Tyler, Joseph, and Annalise, his children, and his entire family, I cannot imagine the sorrow you must be feeling. I hope that, in time, the pain of your loss will be eased by your pride in Matthew's service and by your knowledge that his country will never forget him. We are humbled by his service and his sacrifice.

THE COWBOY CANNONEERS

Mr. BARRASSO. Mr. President, I rise today to honor and recognize the Wyoming Army National Guard 300th Armored Field Artillery Battalion Cowboy Cannoneers.

On October 1, 2010, the 300th soldiers will gather for their final battalion reunion. This reunion marks the 60th anniversary of their Korean war mobilization.

On August 19, 1950, the citizen soldiers of 300th AFA answered the call, picked up their rifles and put on their uniforms to defend our great country. My wife Bobbi's father, Sergeant First Class Robert L. Brown was one of these brave men.

After 21 days at sea, the 300th finally landed at Pusan, Korea on February 15, 1951. In the Spring of 1951, the Chinese People's Volunteers launched a major offensive of human wave style attacks.

Master Sergeant Bill Daly described his first encounter with a communist human wave:

> The morning of 16 May and all hell is breaking loose—Fire Mission! Fire Mission! The gun crews sprang into action, the 300th with its 12 105mm howitzers, fired mission after mission. We could see the Chinese coming across the rice paddies and down the road toward us from Chau-ni as our shells land among them . . . It's a human wave.

From the Battle of Soyang to the Battle for the Punchbowl, the Cowboy Cannoneers provided unrivaled fires support for the U.S. Army X Corps and 1st Marine Division. In 256 days of combat, the 300th fired 300,000 artillery rounds. No other battalion sent a battery farther north of the 38th parallel than the 300th. As a result, the 300th was awarded the Army Presidential Unit Citation and the Republic of Korea Presidential Unit Citation.

For over 59 years, recognition of the heroism of the 300th was incomplete. The Cowboy Cannoneers were not included in the 1st Marine Division Presidential Unit Citation. Yet history shows they delivered devastating artillery fire support that pounded enemy positions in support of the 1st Marine Division.

Jim Craig (MSgt USMC Ret.) of Sheridan, WY, asked me to help COL Tim Sheppard correct the Marine Corps history. They worked closely with Charles Ziegler of my staff to present evidence to the Secretary of the Navy, Ray Mabus, and Commandant of the Marine Corps, GEN James Conway. The overwhelming evidence supported including the 300th in the 1st Marine Division Presidential Unit Citation.

I am pleased to announce that General Conway recommended including the 300th as a reinforcing unit to the 1st Marine Division. Secretary Mabus has signed the order. The record is now correct for the 300th and its descendent unit the 2–300th Field Artillery Battalion.

I would like to thank MG Ed Wright, COL Tim Sheppard and COL Larry Barttelbort (Ret) for their resolve and commitment to uncover the facts about the historic service of the 300th. I would also like to thank Secretary Mabus, Secretary of the Army, John McHugh, General Conway and their teams.

We all know the Korean war is commonly referred to in the history books as ''The Forgotten War.'' Not in Wyoming.

In Wyoming, we never forget the service of our brave men and women who wore the uniform of the United States. We realize that we live safe and free today because of the heroism exemplified by the 300th Cowboy Cannoneers.

Mr. President, I ask unanimous consent to have printed in the RECORD the names of Wyoming's citizen soldiers who served with the 300th at the time of the Korean war mobilization.

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

HEADQUARTERS AND HEADQUARTERS BATTERY
300TH ARMORED FIELD ARTILLERY BATTALION
Sheridan, Wyoming

OFFICERS

Lt. Col. John F. Raper Jr.—Commanding; Major Anthony D. Kelly; Major Gorgon H. Simmons; Capt. Ralph Cloyd; Capt. Hulen Denton; Capt. Robert Herzberg; Capt. Alfred Morgan; Capt. John Poorman; Capt. Earl Pust; Capt. Robert Taft; 1st Lt. Robert Grider; 1st Lt. George Lawler; 1st Lt. Gustav Lofgren; 1st Lt. Peter Mathews; 2nd Lt. Laurel Sand.

WARRANT OFFICERS

CWO–4 Harold Bryce; WO2–Thomas Shannon.

MASTER SERGEANTS

Howard Balow; Joe Herford; Donald Jones; Carl McMaken; William Wood.

SERGEANT FIRST CLASS

Walter Crook; Fred Hough; William Hughes; Eugene Lewis; Floyd Reisch; Donald Williams.

SERGEANTS

Thomas Burnworth; William Eckenrod; Theodore Harker; Edward Hartman; Merrill Hebrew; John Hanson; Tom Holmden; Donald Huffaker; Donald Ingalls; James King; Robert Lott; Dale Maxwell; John Rose; Thomas Wells.

CORPORALS

Floyd Baas; William Badget; Roy Cline; Herbert Deutch; Jack Dewey; Earl Franklin; Frank Green Jr.; Frank Gennaro; Donald Hargis; George Herden; Donald Hyder; Gregg Jones; Paul Lacek; Kenneth Lamb; Irl Maxwell; John McKennan; Bill McNair; Marvin Owen; Richard Pilch; William Preston; Edward Sharp; William Timm; Harry William; Roy Wipper.

PRIVATE FIRST CLASS

Ronald Bohlin; Walter Hampton; Richard Ingalls; Jack Izumi; Hugh McMillan; Linn Maxwell; Jerry Pryor; James Scott; James Vine; Robert Warne.

PRIVATES

Lorenz Algard; Premo Bartot; Andrew Deutsh; Dennis Firth; Claude Hampton; Harold Hammontree; Arthur Littler; Oliver Littler; Byron Mills; Elmer Sterck; Gary Taylor; Richard Williams.

BATTERY A

300TH ARMORED FIELD ARTILLERY BATTALION

Thermopolis, Wyoming

OFFICERS

1st Lt. Radosave P. Jurovich—Commanding; 2nd Lt. Johnny T. Calac; 2nd Lt. Delmer H. Mentch; 2nd Lt. Edward D. Peckham; 2nd Lt. Clyde A. Smith.

SERGEANTS FIRST CLASS

Robert L. Brown; John D. Dodge; George J. Gosch; Earl M. Myers; George (NMI) Rushin.

SERGEANTS

Pete (NMI) Cavalli; Arthur J. Gossens Jr.; Millard P. Jurovich; Kenneth B. Laverents; Charlie F. Lollar; Harold H. Miller; Melvin C. Mills; Raymond G. Patton; Paul (NMI) Ramango; Gildden J. Sanford; Walter D. Slane; Jack A. Toth; William Whitt Jr.

CORPORALS

Marion H. Andreen; Bryson E. Bain; Alvin J. Blakesley; Ivan R. Blakesley; James R. Burnell; Warren L. Fields; Burdett W. Hancock; Robert R. Heron; Raymond D. Maret; Charles W. Miller; Robert W. Noble; Raymond C. Peterson; Jack L. Prickett; George W. Quarles; Jimmy M. Radovich; Charles T. Ray; Richard A. Robertson; George (NMI) Ramagno; Robert H. Scoggin; Robert C. Titus; Robert D. Whitt.

PRIVATES FIRST CLASS

Charles B. Crow; Billy J. Dilland; James L. Duncan; John H. Gosney; Robert L. James; Charles M. Jones; Frank T. Manning; Gerald E. Peyton; George L. Radovich; Marvlyn R. Wilde.

PRIVATES

Howard W. Cox; Lawrence R. Doores; James K. Harris; Earl L. Hummell; Edwin R. Johnson; Conrad L. Maysfield; Donald D. Mills; Gaylord J. Whitt.

BATTERY B

300TH ARMORED FIELD ARTILLERY BATTALION

Cody, Wyoming

OFFICERS

1st Lt. Duane J. Wheeler—Commanding; 1st Lt. George W. Bonton; 2nd Lt. Richard J. Ellsworth; 2nd Lt. David C. Nelson; 2nd Lt. Louis V. Zaputil.

WARRANT OFFICER

W–1 Roscoe W. Anderson.

MASTER SERGEANT

Hans O. Jacobsen.

SERGEANT FIRST CLASS

Keith F. Kinkade; Henry Lewis; James T. McKay; Richard N. Null; Fred D. Snyder.

SERGEANTS

Myron H. Burt; James D. Clayton; Paul Champagne; Herman L. Harke; Allen J. Helms; Marvin Hockley; Lloyd D. Lasher; Eugene F. McCumber; John G. McEachron; Edgan E. Norskog; Homer D. Schull; Clifton R. Smith; Robert C. Smith; Frank G. Stephens.

CORPORALS

Ivan C. Asay; Gerald C. Barrows; Albert B. Campbell; Larry E. Dutton; Robert H. Borron; Wayne L. Feyhl; William K. Fink; Leo H. Gonion; Myron K. Hever; Leslie R. House; Norman C. Mason; Ralph Mayer; Gerald J. Mclaskey; Glen E. Morris; John I. Mulholland; Ralph D. Newell; Howard L. Norskog; Charles J. Pease; Cecil L. Rice; James H. Slotta; John D. Sullivan; Gary Troxel; John J. Way.

PRIVATE FIRST CLASS

William I. Arnold; Hugh E. Cathcart; Chris G. Doty; Robert D. Fitch; Joseph L. Jordan; Charles E. Lumley; Wayne L. Laddusaw; Harold A. Morrison; Bill E. Sharp; Joseph O. Stair; Bobby Wilson.

BATTERY C

300TH ARMORED FIELD ARTILLERY BATTALION

Worland, Wyoming

OFFICERS

1st Lt. Richard L. Friedlund—Commanding; 1st Lt. Thomas A. McCown Sr.; 2nd Lt. Jack C. Hampton; 2nd Lt. Miles E. McKenna Jr.; 2nd Lt. Rufus A. Waldo.

MASTER SERGEANT

Roy E. Yule.

SERGEANTS FIRST CLASS

William L. Garris; Edward R. Haley; Dallas C. Isbell; Gilbert W. Pearl; Joseph V. Salazar.

SERGEANTS

Charles C. Agee; William W. Day; John L. Huff; Jack W. Huffman; Vincent V. Picard; Harry E. Ryan; Jake J. Weber; Alfred E. White.

CORPORALS

Ray W. Agee; Luke A. Barella; Robert M. Black; Alex E. Eckhardt; Robert J. Eckhardt; Dale C. Foreman; Abram S. Goodwin; Owen R. Hecht; Earl E. Maurer; Andrew D. Neville; Ralph A. Pickett; Frank L. Walker.

PRIVATE FIRST CLASS

Vaughn L. Action; Jerry A. Benison; Robert Cady; Vince M. Cervantes; James R. Eckman; Kenneth F. Fare; Charles H. Gabel; Fred N. Garcia; Earl N. Gifford; Susano B. Gomez; Richard M. Harbaugh; Edward G. Kohn; Alfonso Lopez; Forest D. Mercer; Chester E. Phillips; Leo F. Roybal; Raymond Sanchez; Eugene R. Seghetti; Virgil J. Seghetti; Clark H. Sprague; Jack C. Vonney; Donald R. Wortham.

PRIVATES

Richard L. Friess; James D. Harry; Richard V. McLane; Adonelio Padilla; Charles J. Pearl; Benjamin Rangle; Clyde D. Russell; Don N. Widener.

MEDICAL DETACHMENT

300TH ARMORED FIELD ARTILLERY BATTALION

Sheridan, Wyoming

OFFICERS

CPT T. Stacey Lloyd, M.D.; CPT Robert H. Sondag, D.D.S.

MASTER SERGEANTS

Hans O. Jacobsen.

SERGEANTS FIRST CLASS

John A. Raycher.

SERGEANTS

Carl E. Svalstad; Leonard Thompson.

CORPORALS

James Bourke; Frank Green; Bill J. Laya; Raymond Shell; John Shields.

PRIVATE FIRST CLASS

Andy Anderson; George Husby.

SERVICE BATTERY

300TH ARMORED FIELD ARTILLERY BATTALION

Lovell, Wyoming

OFFICERS

CPT Mark D. Robertson—Commanding; 1st Lt. Donovan P. Neville; 2nd Lt. Lawrence Martogli.

WARRANT OFFICERS

W–1 William H. Brown; W–1 Miles B. Harston; W–1 Arnold W. Korell.

MASTER SERGEANTS

Melvin N. Baird; Steve S. Meeker.

SERGEANTS FIRST CLASS

Aaron E. Owens; Scott B. Smith.

SERGEANTS

Robert N. Baird; James D. Dover; Wes B. Meeker; David A. Nicholls; Harry Ryan; Read J. Thomas; Daniel Torgersen; Ralph G. Wilder; Donald L. Wood; Fenton C. Wood.

CORPORALS

Donald A. Blackburn; Kenneth A. Blackburn; Maxce C. Chandler; Wilbur A. Clark; Alvin Doerr; Donald L. Doerr; Fred A. Fichtner; Jerry D. Fink; Robert S. Halliwell; Jerome C. Horsley; Dean H. MacArthur; Don J. Moncus; Uel H. Moore; Marvin Nicholls; Willard D. Quinn; Bill G. Shumway; Graham D. Sims; Ira M. Sumner; Walter E. Watkins; George Wilson.

PRIVATE FIRST CLASS

John C. Frost; John E. Johnson; Wayne W. Porter; Thorald H. Rollins; Richard W. Sessions; Darryl M. Stevens; Rob R. Tillett; Nate L. Townsend; John F. Walker; William C. Whalen; Croft M. Workman.

PRIVATES

Norald S. Emmett; Wayne R. Kinser; Jarmes R. Larson; Robert M. Lindsay; Gordon N. Olson; Kay N. Parks; Joseph R. Reasch; Gouglas A. Reutzel; Leroy V. Sedgewick; Jack M. Thatch; Ralph M. Wilkerson.

RECRUITS

Donald W. Buckley; Theodore W. Doerr; Donald L. Pickett.

ADDITIONAL STATEMENTS

REMEMBERING WILLIAM K. COBLENTZ

• Mrs. BOXER. Mr. President, it is with deep sorrow that I join my colleagues today in honoring the memory of an incredible public servant and a dear friend of mine, William Coblentz. My heart goes out to his family, whom he loved so much: his wife Jean, sister Lolita, daughter Wendy, son Andy, son-in-law Jim, daughter-in-law Shari, and four grandchildren: Nikki, Ben, Jake, and Gena. A loving family man, gifted attorney, and astute political figure, Bill left an enduring impact on the city of San Francisco, the State of California, and our Nation. Bill passed

away on September 13, 2010, in San Francisco. He was 88 years old.

Bill, a native of San Francisco, was born in 1922 and attended Lowell High School. After graduating from UC Berkeley in 1943, Bill served in the U.S. Army Corps of Engineers during World War II. Upon completing his service, Bill attended Yale Law School, graduating in 1947.

Although Bill's monumental legal career began in land use law, it quickly expanded to reflect the diversity of his interests and passions. His private practice, Coblentz, Patch, Duffy & Bass, played an essential role in guiding the development of several transformative San Francisco projects including Yerba Buena Gardens, Levi Plaza, Mission Bay, and AT&T Park. In the 1960s, Bill helped rock concert promoter Bill Graham win a permit to open San Francisco's renowned Fillmore Auditorium.

Bill's passion for civic engagement was unyielding. He entered the political scene as a young adviser to then-California Attorney General Pat Brown. When he became Governor, Brown offered Bill a seat on the University of California Board of Regents, which he occupied for the next 16 years. During this time, he developed a reputation for defending the rights of outspoken students and faculty. Bill had a strong passion for the promotion of civil rights. In 2008, Bill's law firm honored his civil rights work by establishing the Coblentz Fellowship for Civil Rights at UC Berkeley's Boalt Hall School of Law.

I had the honor of calling Bill a friend. His ability to connect with people was unparalleled. From his influential clients, to his political advisees, to his fellow San Franciscans, Bill treated everyone with the respect, humor and consideration he believed they deserved. His relationship with San Francisco was with its people, and it was one that he cherished throughout his life.

Bill approached the people and experiences in his life with a rare combination of courage, humility, and authenticity. His wisdom and camaraderie were consistent sources of inspiration that will truly be missed. Although he is no longer with us, Bill left us not only with the tangible symbols of his legacy in San Francisco, but also with enduring memories of his engaging personality and steadfast determination.●

REMEMBERING KENNETH RAY HALL

● Mr. DODD. Mr. President, today I honor the life of Connecticut State trooper first class Kenneth Ray Hall of Hartford, CT, who was killed in the line of duty earlier this month. I would like to take this opportunity to extend my deepest condolences to Trooper Hall's family, his colleagues on the Connecticut State Police force, and all those who knew and loved him. The sense of loss they must feel is undoubtedly immense, and I know that I speak for all residents of the State of Connecticut when I say that we stand with them during this time of unimaginable grief.

Every single day, in communities large and small throughout this country, law enforcement officers take on incredible personal risks to safeguard our lives and property. Trained to act bravely and selflessly even in the most harrowing of situations, these heroic men and women frequently put themselves in danger to protect people they have never even met. And all too often, these individuals are called upon to make the ultimate sacrifice, giving their own lives in defense of their fellow citizens. Indeed, since the department's founding in 1903, 18 Connecticut State troopers have died in the line of duty.

Trooper Kenneth Hall was no different in that regard. A 22-year veteran of the Connecticut State Police who also served as a marine sniper in Vietnam, Trooper Hall's life exemplified the kind of personal courage and unflinching dedication to public service that are so engrained in the culture of America's law enforcement community. Trooper Hall loved his job and was absolutely devoted to helping and protecting the people of his State and Nation. And that was ultimately what he died doing.

Late in the afternoon on September 2, Trooper Hall stopped a vehicle on I–91 in Enfield, CT, for a routine traffic violation. While he was pulled over on the side of the road filling out paper work, Trooper Hall's police cruiser was struck from behind by a pickup truck. The car was severely damaged, and Trooper Hall was rushed to Baystate Medical Center, just across the border in Springfield, MA. Tragically, in spite of the best efforts of first responders to save his life, Trooper Hall passed away not long after the accident. He was only 57.

In death, Trooper Hall left behind a number of significant, enduring legacies. He was beloved by his colleagues on the Connecticut State Police force, who saw him not only as a wonderful officer, but as a first-rate friend. And he was also part of a larger family of local and State law enforcement officers across the country who considered him a brother in arms. Is it any wonder then, that thousands of police officers, some from as far away as Louisiana and California, gathered at his funeral in Hartford on September 11? What a fitting tribute for such an amazing officer, a man who dedicated the better part of his life to serving the public good.

But perhaps the most important of the numerous legacies Trooper Hall left behind is his large, closely-knit, and incredibly loving family. For his wife Sheila, seven adult children, Tara, Troy, Norman, Teon, Tyco, Andrea and Michael, and countless other family members, Trooper Hall was more than just a dedicated member of Connecticut's State Police force. He was the consummate family man—an individual who relished every opportunity to spend an afternoon with relatives or dote on his grandchildren.

So, it is with great sadness that I join Trooper Hall's loved ones, friends, colleagues, and everyone else whose life was touched in some way by this wonderful man, in mourning his untimely death. While I realize there are few words that can assuage the enormous sense of grief they undoubtedly feel, it is my hope that Trooper Hall's years of commendable service to his State, love for his family, and devotion to his friends will provide them with some measure of comfort during the months and years that lie ahead.●

TRIBUTE TO ARTHUR ''KENNY'' AND JUDY SIMMONS

● Mr. ROCKEFELLER. Mr. President, today I wish to recognize two very special parents in my home State of West Virginia—parents who have so defined the unconditional love that a parent can have for a child, that their actions have had a national impact in the fields of adoption and foster care.

Each year, Members of Congress have the honor and privilege of recognizing, through the Congressional Coalition on Adoption, extraordinary persons who have answered one of our Nation's most important calls to action to provide our most vulnerable children with a forever family.

Children are the future leaders of our great country, and adoption and foster care are causes that has always been close to my heart. I am proud to officially recognize two West Virginian angels—Arthur ''Kenny'' and Judy Simmons—as true angels in adoption.

Kenny and Judy adopted two 13-year-old boys, Joshua and Terry. The willingness to open a home to older children is special; all too often these children are left behind. Prior to adoption, these young boys struggled with uncertainty and one child endured 23 different homes while waiting for permanency. Judy and Kenny have given him a home, security and a future. The needs of children in foster care are challenging. But when we help these vulnerable, young people, we change their life, and in fact the lives of the entire family and communities. This is why throughout my Senate career, I have worked to improve Federal policies for adoptions and child welfare including the 2008 Fostering Connections Act and the Adoption and Safe Families Act of 1997. We should provide support and encouragement for foster and adoptive families the quality training and education they need and the all of the support possible for the caseworkers and judges making the tough decisions about a child's placement.

Each fall, I have the pleasure of honoring one of the families in our State who have opened their hearts and homes to children in need. It is my great honor to highlight these heroes

among us. The Simmons' family gives all they can and never gives up. They are the eptiomy of what a committed, forever family, is all about. For this, I want to recognize, honor, and thank them for their passion and dedication and for being true angels in adoption I admire.●

MESSAGE FROM THE PRESIDENT

A message from the President of the United States was communicated to the Senate by Mr. Pate, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session the Presiding Officer laid before the Senate a message from the President of the United States submitting a nomination which was referred to the Committee on Foreign Relations.

(The nomination received today is printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE RECEIVED DURING ADJOURNMENT

ENROLLED BILLS SIGNED

Under the authority of the order of the Senate of January 6, 2009, the Secretary of the Senate, on September 24, 2010, during the adjournment of the Senate, received a message from the House announcing that the Speaker has signed the following enrolled bills:

S. 1674. An act to provide for an exclusion under the Supplemental Security Income program and the Medicaid program for compensation provided to individuals who participate in clinical trials for rare diseases or conditions.

S. 3717. An act to amend the Securities Exchange Act of 1934, the Investment Company Act of 1940, and the Investment Advisers Act of 1940 to provide for certain disclosures under section 552 of title 5, United States Code, (commonly referred to as the Freedom of Information Act), and for other purposes.

S. 3814. An act to extend the National Flood Insurance Program until September 30, 2011.

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

MESSAGE FROM THE HOUSE

At 2:03 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has agreed to the amendment of the Senate to the bill (H.R. 1517) to allow certain U.S. Customs and Border protection employees who serve under an overseas limited appointment for at least 2 years, and whose service is rated fully successful or higher throughout that time, to be converted to a permanent appointment in the competitive service.

ENROLLED BILLS PRESENTED

The Assistant Secretary of the Senate reported that on September 24, 2010, during the adjournment of the Senate, she had presented to the President of the United States the following enrolled bills:

S. 1674. An act to provide for an exclusion under the Supplemental Security Income program and the Medicaid program for compensation provided to individuals who participate in clinical trials for rare diseases or conditions.

S. 3717. An act to amend the Securities Exchange Act of 1934, the Investment Company Act of 1940, and the Investment Advisers Act of 1940 to provide for certain disclosures under section 552 of title 5, United States Code, (commonly referred to as the Freedom of Information Act), and for other purposes.

S. 3814. An act to extend the National Flood Insurance Program until September 30, 2011.

EXECUTIVE AND OTHER COMMUNICATIONS

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

EC–7540. A communication from the Director, National Institute of Food and Agriculture, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Competitive and Noncompetitive Non-formula Federal Assistance Programs—Specific Administrative Provisions for the New Era Rural Technology Competitive Grants Program'' (RIN0524–AA60) received in the Office of the President of the Senate on September 21, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7541. A communication from the Secretary, Office of the Chief Accountant, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled ''Internal Control Over Financial Reporting in Exchange Act Periodic Reports of Non-Accelerated Filers'' (5 U.S.C. Section 801) received in the Office of the President of the Senate on September 20, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC–7542. A communication from the Acting Deputy Director of National Marine Sanctuaries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Changes to the Florida Keys National Marine Sanctuary Regulations; Technical Corrections and Minor Substantive Changes'' (RIN0648–AX34) received in the Office of the President of the Senate on September 20, 2010; to the Committee on Commerce, Science, and Transportation.

EC–7543. A communication from the Acting Deputy Director of National Marine Sanctuaries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Gulf of the Farallones, Monterey Bay and Cordell Bank National Marine Sanctuaries Technical Corrections'' (RIN0648–AY20) received in the Office of the President of the Senate on September 20, 2010; to the Committee on Commerce, Science, and Transportation.

EC–7544. A communication from the Acting Deputy Director of National Marine Sanctuaries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Gray's Reef National Marine Sanctuary Regulations on the Use of Spearfishing Gear; Correction'' (RIN0648–AX37) received in the Office of the President of the Senate on September 20, 2010; to the Committee on Commerce, Science, and Transportation.

EC–7545. A communication from the Deputy Chief Counsel for Regulations and Security Standards, Transportation Security Administration, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Revision of Enforcement Procedures'' (RIN1652–AA62) received in the Office of the President of the Senate on September 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–7546. A communication from the Chief of Recovery and Delisting Branch, Endangered Species Program, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Reclassification of the Oregon Chub From Endangered to Threatened'' (RIN1018–AW42) received in the Office of the President of the Senate on September 21, 2010; to the Committee on Environment and Public Works.

EC–7547. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Revenue Ruling—Over the Counter Drugs'' (Rev. Rul. 2010–23) received in the Office of the President of the Senate on September 20, 2010; to the Committee on Finance.

EC–7548. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled ''Child Care and Development Fund Report to Congress for Fiscal Years 2006 and 2007''; to the Committee on Finance.

EC–7549. A communication from the Secretary of Transportation, transmitting, pursuant to law, the Department's Annual Report on Disability-Related Air Travel Complaints; to the Committee on Health, Education, Labor, and Pensions.

EC–7550. A communication from the Deputy Director of Regulations and Policy Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Cardiovascular Devices; Reclassification of Certain Percutaneous Transluminal Coronary Angioplasty (PTCA) Catheters'' (Docket No. FDA–2000–P–0924) received in the Office of the President of the Senate on September 21, 2010; to the Committee on Health, Education, Labor, and Pensions.

EC–7551. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Department's report entitled ''Report to Congress on a Plan for The Proposed Head Start Program Designation Renewal System''; to the Committee on Health, Education, Labor, and Pensions.

EC–7552. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report to Congress by the Interagency Access to Health Care in Alaska Task Force; to the Committee on Health, Education, Labor, and Pensions.

EC–7553. A communication from the Chief Privacy Officer, Privacy Office, Department of Homeland Security, transmitting, pursuant to law, a report entitled ''DHS Privacy Office 2010 Annual Report to Congress''; to the Committee on Homeland Security and Governmental Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–142. A joint resolution adopted by the Legislature of the State of California urging

Congress to protect and preserve the ability of California wineries, as all American wineries, to ship wine directly to consumers without discrimination between in-state and out-of-state wine producers; to the Committee on the Judiciary.

SENATE JOINT RESOLUTION NO. 34

Whereas. California is the fourth largest wine producing region in the world, after France, Italy, and Spain; and

Whereas, California has 2,972 bonded wineries; and

Whereas, California has 4,600 winegrape growers; and

Whereas, California has 531,000 acres of winegrapes; and

Whereas, California winegrowers ship over 193 million cases, representing some 467 million gallons of wine to the United States wine market; and

Whereas, the California wine industry creates more than 330,000 jobs, billions of dollars in economic impact, and preserves agricultural land and family farms; and

Whereas, the California wine industry generates higher taxes than most industries because, as a regulated industry, it pays excise taxes to the state and federal government on every gallon of wine; and

Whereas, the California wine industry has an annual impact of $61.5 billion on the state's economy and produces the number one finished agricultural product in the state; and

Whereas, the economic impact of the United States wine industry on the national economy is $121.8 billion annually; and

Whereas, California's wine industry attracts 20.7 million tourists annually to all regions of California and generates wine-related tourism expenditures of $2.1 billion; and

Whereas, currently 37 states and the District of Columbia allow direct shipping of wine from winegrowers to consumers; and

Whereas, the innovation and entrepreneurial spirit of small California wineries drives the entire industry to improve and progress; and

Whereas, in order to reach consumers in other states, many California wineries have turned to direct marketing and shipping of their wines; and

Whereas, since 1985 California has pioneered consumer access to wine through reciprocal and permit shipping to alleviate scarcity at the retail level of California wines; and

Whereas, over the past 10 years, consolidation trends within the wholesale tier have made it difficult for California wineries to achieve adequate distribution, and, as a result, have limited consumer choice; and

Whereas, California wineries have offered voluntarily to have their direct marketing and shipping permitted and regulated by other states to ensure that those states collect the same taxes that wines sold through the three-tier system must pay, that direct deliveries would be made only to adults, and that direct deliveries are not made in ''dry'' areas, as defined under the laws of each state; and

Whereas, the California wine industry has developed comprehensive model direct shipping legislation to address all of the concerns expressed by state alcohol regulators across the country; and

Whereas, California has enacted a law to open direct shipping of wine from other states to its own residents without limitation through a simple permit system to comply with the decision in Granholm v. Heald (2005) 544 U.S. 460; and

Whereas, States' rights to regulate wine and alcohol granted by the 21st Amendment to the United States Constitution have always been subject to constitutional limitation and judicial review; and

Whereas, court decisions over the last 40 years balance state authority to regulate alcohol with the framer's belief that the nation would only succeed if interstate commerce thrived; and

Whereas, the Commerce Clause has been applied judiciously by the courts to foster national economic goals while preserving nondiscriminatory state authority; and

Whereas, the landmark 2005 United States Supreme Court case, Granholm v. Heald, reaffirmed states' rights under the 21st Amendment to the United States Constitution to regulate wine as long as they do not discriminate between in-state producers and out-of-state producers, and correctly ruled that these rights do not supersede other provisions of the Constitution; and

Whereas, H.R. 5034 would severely limit consumer choice in California wine throughout the nation as direct-to-consumer laws are amended or repealed; and

Whereas, H.R. 5034 would imperil market access for California wineries that cannot secure effective wholesale distribution; and

Whereas, H.R. 5034 would stunt competition among the nation's 7,011 wine producers as markets are artificially constrained and access is limited; and

Whereas, H.R. 5034 would allow certain state alcohol laws to avoid judicial scrutiny through a presumption of validity; and

Whereas, H.R. 5034 would reverse decades of long-established jurisprudence that has balanced interstate commerce concerns with state regulatory authority and fostered a dramatic growth in wine production, sales, and tax revenue; and

Whereas, H.R. 5034 would insulate and sanction discriminatory state laws by reversing evidentiary rules for Commerce Clause legal challenges and increasing the burden of proof of plaintiffs; and

Whereas, H.R. 5034 would frustrate legitimate challenges to superficially neutral, but nonetheless discriminatory, state laws like the landmark Massachusetts production cap case, Family Winemakers of California v. Jenkins (2010) 592 F.3d 1; and

Whereas, H.R. 5034 would be an unprecedented shift in the relationship between federal and state authority over wine; Now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That the Legislature of the State of California hereby respectfully urges Congress to protect and preserve the ability of California wineries, as well as all American wineries, to ship wine directly to consumers without discrimination between in-state and out-of-state wine producers; and be it further

Resolved, That the Legislature of the State of California urges the defeat of H.R. 5034; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the President pro tempore of the United States Senate, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

POM–143. A resolution from the Legislature of Rockland County, New York relative to the Safe Drinking Water Act and hydraulic fracturing; to the Committee on Environment and Public Works.

POM–144. A resolution from the Legislature of Rockland County, New York urging Congress to pass the Veteran Employment Assistance Act of 2010; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

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

S. 349. A bill to establish the Susquehanna Gateway National Heritage Area in the State of Pennsylvania, and for other purposes (Rept. No. 111–303).

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

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 (Rept. No. 111–304).

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

S. 745. A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Magna Water District water reuse and groundwater recharge project, and for other purposes (Rept. No. 111–305).

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

S. 1117. A bill to authorize the Secretary of the Interior to provide assistance in implementing cultural heritage, conservation, and recreational activities in the Connecticut River watershed of the States of New Hampshire and Vermont (Rept. No. 111–306).

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

S. 1320. A bill to provide assistance to owners of manufactured homes constructed before January 1, 1976, to purchase Energy Star—qualified manufactured homes (Rept. No. 111–307).

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

S. 1596. A bill to authorize the Secretary of the Interior to acquire the Gold Hill Ranch in Coloma, California (Rept. No. 111–308).

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

S. 1651. A bill to modify a land grant patent issued by the Secretary of the Interior (Rept. No. 111–309).

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

S. 1689. A bill to designate certain land as components of the National Wilderness Preservation System and the National Landscape Conservation System in the State of New Mexico, and for other purposes (Rept. No. 111–310).

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

S. 1750. A bill to authorize the Secretary of the Interior to conduct a special resource study of the General of the Army George Catlett Marshall National Historic Site at Dodona Manor in Leesburg, Virginia, and for other purposes (Rept. No. 111–311).

S. 2052. A bill to amend the Energy Policy Act of 2005 to require the Secretary of Energy to carry out a research and development and demonstration program to reduce manufacturing and construction costs relating to nuclear reactors, and for other purposes (Rept. No. 111–312).

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

S. 2798. A bill to reduce the risk of catastrophic wildfire through the facilitation of insect and disease infestation treatment of National Forest System and adjacent land, and for other purposes (Rept. No. 111–313).

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

S. 2812. A bill to amend the Energy Policy Act of 2005 to require the Secretary of Energy to carry out programs to develop and demonstrate 2 small modular nuclear reactor designs, and for other purposes (Rept. No. 111–314).

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

S. 2900. A bill to establish a research, development, and technology demonstration program to improve the efficiency of gas turbines used in combined cycle and simple cycle power generation systems (Rept. No. 111–315).

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

S. 3075. A bill to withdraw certain Federal land and interests in that land from location, entry, and patent under the mining laws and disposition under the mineral and geothermal leasing laws (Rept. No. 111–316).

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

S. 3303. A bill to establish the Chimney Rock National Monument in the State of Colorado (Rept. No. 111–317).

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

S. 3313. A bill to withdraw certain land located in Clark County, Nevada from location, entry, and patent under the mining laws and disposition under all laws pertaining to mineral and geothermal leasing or mineral materials, and for other purposes (Rept. No. 111–318).

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

S. 3396. A bill to amend the Energy Policy and Conservation Act to establish within the Department of Energy a Supply Star program to identify and promote practices, companies, and products that use highly efficient supply chains in a manner that conserves energy, water, and other resources (Rept. No. 111–319).

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

S. 3404. A bill to amend the Reclamation Projects Authorization and Adjustment Act of 1992 to require the Secretary of the Interior, acting through the Bureau of Reclamation, to take actions to improve environmental conditions in the vicinity of the Leadville Mine Drainage Tunnel in Lake County, Colorado, and for other purposes (Rept. No. 111–320).

S. 3452. A bill to designate the Valles Caldera National Preserve as a unit of the National Park System, and for other purposes (Rept. No. 111–321).

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

H.R. 685. To require the Secretary of the Interior to conduct a special resource study regarding the proposed United States Civil Rights Trail, and for other purposes (Rept. No. 111–322).

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

H.R. 1612. To amend the Public Lands Corps Act of 1993 to expand the authorization of the Secretaries of Agriculture, Commerce, and the Interior to provide service opportunities for young Americans; help restore the nation's natural, cultural, historic, archaeological, recreational and scenic resources; train a new generation of public land managers and enthusiasts; and promote the value of public service (Rept. No. 111–323).

H.R. 2430. A bill to direct the Secretary of the Interior to continue stocking fish in certain lakes in the North Cascades National Park, Ross Lake National Recreation Area, and Lake Chelan National Recreation Area (Rept. No. 111–324).

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

H.R. 2442. A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to expand the Bay Area Regional Water Recycling Program, and for other purposes (Rept. No. 111–325).

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

H.R. 2522. A bill to raise the ceiling on the Federal share of the cost of the Calleguas Municipal Water District Recycling Project, and for other purposes (Rept. No. 111–326).

H.R. 3388. A bill to modify the boundary of Petersburg National Battlefield in the Commonwealth of Virginia, and for other purposes (Rept. No. 111–327).

H.R. 4252. A bill to direct the Secretary of the Interior to conduct a study of water resources in the Rialto—Colton Basin in the State of California, and for other purposes (Rept. No. 111–328).

H.R. 4349. A bill to further allocate and expand the availability of hydroelectric power generated at Hoover Dam, and for other purposes (Rept. No. 111–329).

H.R. 4395. A bill to revise the boundaries of the Gettysburg National Military Park to include the Gettysburg Train Station, and for other purposes (Rept. No. 111–330).

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

H.R. 5026. To amend the Federal Power Act to protect the bulk-power system and electric infrastructure critical to the defense of the United States against cybersecurity and other threats and vulnerabilities (Rept. No. 111–331).

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

S. 3460. A bill to require the Secretary of Energy to provide funds to States for rebates, loans, and other incentives to eligible individuals or entities for the purchase and installation of solar energy systems for properties located in the United States, and for other purposes (Rept. No. 111–332).

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

S. 3243. A bill to require U.S. Customs and Border Protection to administer polygraph examinations to all applicants for law enforcement positions with U.S. Customs and Border Protection, to require U.S. Customs and Border Protection to complete all periodic background reinvestigations of certain law enforcement personnel, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. KYL (for himself, Mr. MERKLEY, and Mr. BURR):

S. 3841. A bill to amend title 18, United States Code, to prohibit the creation, sale, distribution, advertising, marketing, and exchange of animal crush videos that depict obscene acts of animal cruelty, and for other purposes; to the Committee on the Judiciary.

By Mr. LEAHY (for himself, Mr. FRANKEN, and Ms. KLOBUCHAR):

S. 3842. A bill to protect crime victims' rights, to eliminate the substantial backlog of DNA samples collected from crime scenes and convicted offenders, to improve and expand the DNA testing capacity of Federal, State, and local crime laboratories, to increase research and development of new DNA testing technologies, to develop new training programs regarding the collection and use of DNA evidence, to provide post conviction testing of DNA evidence to exonerate the innocent, to improve the performance of counsel in State capital cases, and for other purposes; to the Committee on the Judiciary.

By Mr. SCHUMER (for himself, Mrs. GILLIBRAND, Mr. FEINGOLD, and Mrs. BOXER):

S. 3843. A bill to require disclosure of the physical location of business agents engaging in customer service communications, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. LUGAR:

S. 3844. A bill to provide for the approval of the Agreement Between the Government of the United States of America and the Government of Australia Concerning Peaceful Uses of Nuclear Energy; to the Committee on Foreign Relations.

By Mr. CASEY:

S. 3845. A bill to establish the National Competition for Community Renewal to encourage communities to adopt innovative strategies and design principles, to programs related to poverty prevention, recovery and response, and for other purposes; to the Committee on Finance.

By Ms. COLLINS (for herself and Mr. AKAKA):

S. 3846. A bill to establish a temporary prohibition on termination coverage under the TRICARE program for age of dependents under the age of 26 years; to the Committee on Armed Services.

By Mr. KERRY (for himself and Mr. LUGAR):

S. 3847. A bill to implement certain defense trade cooperation treaties, and for other purposes; considered and passed.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Ms. LANDRIEU (for herself, Mr. INHOFE, Mrs. LINCOLN, Mr. GRASSLEY, Mrs. MURRAY, Mr. DEMINT, Mr. KERRY, Ms. COLLINS, Mr. NELSON of Nebraska, Mr. ENZI, Mr. CARDIN, Mr. VOINOVICH, Mr. FRANKEN, Mr. THUNE, Mr. CONRAD, Mr. COBURN, Mr. MERKLEY, Mr. BROWNBACK, Mr. JOHNSON, Mr. BENNETT, Mr. ROCKEFELLER, Mr. ALEXANDER, Mrs. HUTCHISON, Mr. LEMIEUX, Mrs. GILLIBRAND, Mr. LUGAR, Ms. KLOBUCHAR, Mr. LAUTENBERG, Mr. WYDEN, Mr. INOUYE, and Mr. CORNYN):

S. Res. 647. A resolution expressing the 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 Mr. CRAPO (for himself, Mrs. LINCOLN, Mrs. SHAHEEN, and Mr. DORGAN):

S. Res. 648. A resolution designating the week beginning on Monday, November 8, 2010, as ''National Veterans History Project Week''; to the Committee on the Judiciary.

By Mr. CONRAD (for himself, Mr. ENZI, and Mr. CARDIN):

S. Res. 649. A resolution supporting the goals and ideals of ''National Save for Retirement Week'', including raising public awareness of the various tax-preferred retirement vehicles and increasing personal financial literacy; considered and agreed to.

By Mr. REED (for himself, Ms. COLLINS, Mr. CARDIN, Mr. WHITEHOUSE, Mr. MENENDEZ, Mr. DODD, Mrs. BOXER, and Mr. JOHANNS):

S. Res. 650. A resolution designating the week of October 24 through October 30, 2010, as ''National Childhood Lead Poisoning Prevention Week''; considered and agreed to.

By Mr. REID (for Mrs. LINCOLN (for herself, Mr. COCHRAN, Mrs. FEINSTEIN, Mr. PRYOR, Ms. LANDRIEU, Mrs. BOXER, Mr. VITTER, Mrs. MCCASKILL, Mr. BOND, Mr. WICKER, and Mr. CORNYN)):

S. Res. 651. A resolution recognizing the 20th anniversary of the designation of the month of September of 1991 as ''National Rice Month''; considered and agreed to.

ADDITIONAL COSPONSORS

S. 435

At the request of Mr. CASEY, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 435, a bill to provide for evidence-based and promising practices related to juvenile delinquency and criminal street gang activity prevention and intervention to help build individual, family, and community strength and resiliency to ensure that youth lead productive, safe, healthy, gang-free, and law-abiding lives.

S. 446

At the request of Mr. SPECTER, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 446, a bill to permit the televising of Supreme Court proceedings.

S. 455

At the request of Mr. ROBERTS, the names of the Senator from Massachusetts (Mr. BROWN), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Texas (Mr. CORNYN), the Senator from Idaho (Mr. CRAPO), the Senator from Florida (Mr. LEMIEUX), the Senator from Michigan (Ms. STABENOW), the Senator from Tennessee (Mr. ALEXANDER), the Senator from Iowa (Mr. GRASSLEY), the Senator from Vermont (Mr. LEAHY), the Senator from Oklahoma (Mr. COBURN), the Senator from Hawaii (Mr. AKAKA), the Senator from Virginia (Mr. WARNER), the Senator from Mississippi (Mr. WICKER), the Senator from Pennsylvania (Mr. SPECTER), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Michigan (Mr. LEVIN), the Senator from Colorado (Mr. UDALL), the Senator from Minnesota (Ms. KLOBUCHAR), the Senator from Ohio (Mr. BROWN), the Senator from New York (Mr. SCHUMER) and the Senator from California (Mrs. BOXER) were added as cosponsors of S. 455, a bill to require the Secretary of the Treasury to mint coins in recognition of 5 United States Army Five-Star Generals, George Marshall, Douglas MacArthur, Dwight Eisenhower, Henry ''Hap'' Arnold, and Omar Bradley, alumni of the United States Army Command and General Staff College, Fort Leavenworth, Kansas, to coincide with the celebration of the 132nd Anniversary of the founding of the United States Army Command and General Staff College.

S. 1311

At the request of Mr. WICKER, the name of the Senator from Florida (Mr. LEMIEUX) was added as a cosponsor of S. 1311, a bill to amend the Federal Water Pollution Control Act to expand and strengthen cooperative efforts to monitor, restore, and protect the resource productivity, water quality, and marine ecosystems of the Gulf of Mexico.

S. 1327

At the request of Mr. JOHNSON, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 1327, a bill to reauthorize the public and Indian housing drug elimination program of the Department of Housing and Urban Development, and for other purposes.

S. 1350

At the request of Mr. PRYOR, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 1350, a bill to encourage increased production of natural gas and liquified petroleum gas vehicles and to provide tax incentives for natural gas and liquefied petroleum gas vehicle infrastructure, and for other purposes.

S. 1445

At the request of Mr. LAUTENBERG, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 1445, a bill to amend the Public Health Service Act to improve the health of children and reduce the occurrence of sudden unexpected infant death and to enhance public health activities related to stillbirth.

S. 1553

At the request of Mr. GRASSLEY, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 1553, a bill to require the Secretary of the Treasury to mint coins in commemoration of the National Future Farmers of America Organization and the 85th anniversary of the founding of the National Future Farmers of America Organization.

S. 2129

At the request of Ms. COLLINS, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 2129, a bill to authorize the Administrator of General Services to convey a parcel of real property in the District of Columbia to provide for the establishment of a National Women's History Museum.

S. 2888

At the request of Mr. CARDIN, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 2888, a bill to amend section 205 of title 18, United States Code, to exempt qualifying law school students participating in legal clinics from the application of the general conflict of interest rules under such section.

S. 2896

At the request of Mr. FRANKEN, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 2896, a bill to recruit, support, and prepare principals to improve student academic achievement at high-need schools.

S. 2920

At the request of Mr. LAUTENBERG, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 2920, a bill to amend chapter 1 of title 23, United States Code, to condition the receipt of certain highway funding by States on the enactment and enforcement by States of certain laws to prevent repeat intoxicated driving.

S. 3036

At the request of Mr. BAYH, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 3036, a bill to establish the Office of the National Alzheimer's Project.

S. 3039

At the request of Mr. UDALL of New Mexico, the names of the Senator from Connecticut (Mr. DODD) and the Senator from Minnesota (Mr. FRANKEN) were added as cosponsors of S. 3039, a bill to prevent drunk driving injuries and fatalities, and for other purposes.

S. 3371

At the request of Mrs. MCCASKILL, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 3371, a bill to amend title 10, United States Code, to improve access to mental health care counselors under the TRICARE program, and for other purposes.

S. 3398

At the request of Mr. BAUCUS, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 3398, a bill to amend the Internal Revenue Code of 1986 to extend the work opportunity credit to certain recently discharged veterans.

S. 3424

At the request of Mr. DURBIN, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 3424, a bill to amend the Animal Welfare Act to provide further protection for puppies.

S. 3572

At the request of Mrs. LINCOLN, the name of the Senator from Connecticut

(Mr. DODD) was added as a cosponsor of S. 3572, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 225th anniversary of the establishment of the Nation's first law enforcement agency, the United States Marshals Service.

S. 3668

At the request of Mr. HARKIN, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 3668, a bill to require the Secretary of Health and Human Services to establish a demonstration program to award grants to, and enter into contracts with, medical-legal partnerships to assist patients and their families to navigate health-related programs and activities.

S. 3701

At the request of Mr. GRASSLEY, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 3701, a bill to amend the Food Security Act of 1985 to restore integrity to and strengthen payment limitation rules for commodity payments and benefits.

S. 3703

At the request of Mrs. MURRAY, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 3703, a bill to expand the research, prevention, and awareness activities of the Centers for Disease Control and Prevention and the National Institutes of Health with respect to pulmonary fibrosis, and for other purposes.

S. 3708

At the request of Mr. SCHUMER, the name of the Senator from Illinois (Mr. BURRIS) was added as a cosponsor of S. 3708, a bill to amend titles XVIII and XIX of the Social Security Act to clarify the application of EHR payment incentives in cases of multi-campus hospitals.

S. 3709

At the request of Mr. WHITEHOUSE, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 3709, a bill to amend the Public Health Services Act and the Social Security Act to extend health information technology assistance eligibility to behavioral health, mental health, and substance abuse professionals and facilities, and for other purposes.

S. 3735

At the request of Mrs. LINCOLN, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 3735, a bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to improve the use of certain registered pesticides.

S. 3751

At the request of Mr. HATCH, the names of the Senator from Ohio (Mr. BROWN), the Senator from California (Mrs. FEINSTEIN) and the Senator from Illinois (Mr. BURRIS) were added as cosponsors of S. 3751, a bill to amend the Stem Cell Therapeutic and Research Act of 2005.

S. 3755

At the request of Mr. ROCKEFELLER, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 3755, a bill to ensure fairness in admiralty and maritime law and for other purposes.

S. 3775

At the request of Mr. TESTER, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 3775, a bill to improve prostate cancer screening and treatment, particularly in medically underserved communities, and for other purposes.

S. 3786

At the request of Mr. KERRY, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 3786, a bill to amend the Internal Revenue Code of 1986 to permit the Secretary of the Treasury to issue prospective guidance clarifying the employment status of individuals for purposes of employment taxes and to prevent retroactive assessments with respect to such clarifications.

S. 3802

At the request of Mr. BEGICH, his name was added as a cosponsor of S. 3802, a bill to designate a mountain and icefield in the State of Alaska as the ''Mount Stevens'' and ''Ted Stevens Icefield'', respectively.

S. 3804

At the request of Mr. LEAHY, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 3804, a bill to combat online infringement, and for other purposes.

S. 3813

At the request of Mr. BINGAMAN, the names of the Senator from New York (Mrs. GILLIBRAND), the Senator from Missouri (Mrs. MCCASKILL) and the Senator from Montana (Mr. TESTER) were added as cosponsors of S. 3813, a bill to amend the Public Utility Regulatory Policies Act of 1978 to establish a Federal renewable electricity standard, and for other purposes.

S. 3816

At the request of Mr. DURBIN, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 3816, a bill to amend the Internal Revenue Code of 1986 to create American jobs and to prevent the offshoring of such jobs overseas.

S. CON. RES. 63

At the request of Mr. JOHNSON, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. Con. Res. 63, a concurrent resolution expressing the sense of Congress that Taiwan should be accorded observer status in the International Civil Aviation Organization (ICAO).

S. CON. RES. 71

At the request of Mr. FEINGOLD, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. Con. Res. 71, a concurrent resolution recognizing the United States national interest in helping to prevent and mitigate acts of genocide and other mass atrocities against civilians, and supporting and encouraging efforts to develop a whole of government approach to prevent and mitigate such acts.

S. RES. 278

At the request of Mrs. GILLIBRAND, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. Res. 278, a resolution honoring the Hudson River School painters for their contributions to the United States Senate.

S. RES. 631

At the request of Mrs. LINCOLN, the names of the Senator from Michigan (Ms. STABENOW), the Senator from Washington (Mrs. MURRAY) and the Senator from North Dakota (Mr. DORGAN) were added as cosponsors of S. Res. 631, a resolution designating the week beginning on November 8, 2010, as National School Psychology Week.

S. RES. 646

At the request of Mr. HATCH, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. Res. 646, a resolution designating Thursday, November 18, 2010, as ''Feed America Day''.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KYL (for himself, Mr. MERKLEY, and Mr. BURR):

S. 3841. A bill to amend title 18, United States Code, to prohibit the creation, sale, distribution, advertising, marketing, and exchange of animal crush videos that depict obscene acts of animal cruelty, and for other purposes; to the Committee on the Judiciary.

Mr. KYL. Mr. President, today, Senators MERKLEY and BURR and I are introducing the Animal Crush Video Prohibition Act of 2010. The bill would criminalize the creation, sale, distribution, advertising, marketing, and exchange of animal crush videos. Representative GALLEGLY has sponsored a House companion bill, the Prevention of Interstate Commerce in Animal Crush Videos Act, H.R. 5566.

Animal crush videos often depict obscene, extreme acts of animal cruelty designed to appeal to a specific, prurient sexual fetish. These crush videos were the target of a 1999 Federal statute that the United States Supreme Court struck down earlier this year in U.S. v. Stevens. In Stevens, the Supreme Court overturned the 1999 Act banning depictions of animal cruelty on the basis that it was unconstitutionally overbroad, in violation of the First Amendment.

The Stevens case did not involve crush videos and the Court specifically stated that it was not deciding whether a statute limited to crush videos would be constitutional. Instead it left the door open for Congress to enact a narrowly tailored ban on animal crush videos.

Our legislation would ban animal crush videos that fit squarely within

the obscenity doctrine, a well-established exception to the First Amendment. The Senate Judiciary Committee received testimony earlier this month on the obscene nature of crush videos. Dr. Kevin Volkan, a psychology professor with an expertise in atypical psychopathologies, testified about the sexual nature of crush videos and the specific paraphilias associated with them. He stated that in his professional opinion the crush videos contain elements of specific forms of paraphilia in varying degrees and that people, usually men, watch crush videos for sexual gratification. The Humane Society's two crush video investigations also confirm the inherent sexual nature of many crush videos. Those investigations also found a growing market for custom-made videos for those with crush paraphilia.

The United States also has a long-history of prohibiting speech that is essential to criminal conduct. In the case of animal crush videos, the videos themselves drive the criminal conduct depicted in them. Every State and the District of Columbia have laws criminalizing the animal cruelty depicted in the videos, but these laws are hard to enforce. The acts of extreme animal cruelty are committed secretively and anonymously. The nature of the videos also makes it difficult to determine when and where the crimes occurred or that the crime occurred within the relevant statute of limitations. These prosecutorial difficulties are confirmed by the Association of Prosecuting Attorneys. Given the difficulty in prosecuting the underlying conduct using state law, the integral connection between the video and the criminal conduct, and the recent proliferation of animal crush videos on the Internet since the Stevens decision, it is necessary for Congress to enact a new Federal law targeting the interstate distribution network for animal crush videos.

This measure will also take an important step by banning non-commercial distribution of animal crush videos. We believe this is necessary given the nature of the Internet and the propagation of file-sharing and peer-to-peer networks that exist today. Similar to other Federal criminal statutes that prohibit non-commercial distribution, there is an exception for law enforcement purposes.

I want to thank Senators LEAHY and SESSIONS and their staffs for their assistance in addressing this important issue and holding a hearing on the topic in the Senate Judiciary Committee. I also want to thank the Humane Society for bringing this issue to Congress' attention and working tirelessly to address it.

I urge my Senate colleagues to support this legislation and work with me to swiftly enact it.

By Mr. LEAHY (for himself, Mr. FRANKEN, and Ms. KLOBUCHAR):

S. 3842. A bill to protect crime victims' rights, to eliminate the substantial backlog of DNA samples collected from crime scenes and convicted offenders, to improve and expand the DNA testing capacity of Federal, State, and local crime laboratories, to increase research and development of new DNA testing technologies, to develop new training programs regarding the collection and use of DNA evidence, to provide post conviction testing of DNA evidence to exonerate the innocent, to improve the performance of counsel in State capital cases, and for other purposes; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, today, I am proud to introduce the Justice for All Reauthorization Act of 2010, together with Senator FRANKEN. The Justice for All Act, passed in 2004, was an unprecedented bipartisan piece of criminal justice legislation and the most significant step Congress had taken in many years to improve the quality of justice in this country, and to restore public confidence in the integrity of the American justice system. After several hearings and much work, today we begin in earnest the process of building on that foundation to go still further to ensure our criminal justice system works fairly and effectively for all Americans.

In 2000, I introduced the Innocence Protection Act, which aimed to improve the administration of justice by ensuring that defendants in the most serious cases receive competent representation and, where appropriate, access to post-conviction DNA testing necessary to prove their innocence in those cases where the system got it grievously wrong.

The Innocence Protection Act became a key component of the Justice for All Act, along with important provisions to ensure that crime victims would have the rights and protections they need and deserve, and that States and communities would take major steps to reduce the backlog of untested rape kits and give prompt justice for victims of sexual assault. These and other important criminal justice provisions made the Justice for All Act a groundbreaking achievement in criminal justice reform.

The programs created by the Justice For All Act have had an enormous impact, and it is crucial that we reauthorize them. Unfortunately, the Committee's hearings and recent headlines have made clear that simply reauthorizing the existing law is not enough. Significant problems remain, and we must work together to address them.

In too many communities around the country, large numbers of untested rape kids have come to light, many of which have not even made their way to crime labs. It is unacceptable that rape victims must still live in fear and wait for justice. We must act to fix this continuing problem.

We have also seen too many cases of people found to be innocent after spending years in jail, and we have faced the harrowing possibility that the unthinkable may have happened: the State of Texas may have executed an innocent man. We must act to ensure that our criminal justice system works as it should so that relevant evidence is tested and considered and all defendants receive quality representation.

I thank Senator FRANKEN for working with me on these important issues and helping to craft this important bill. I also appreciate the Republican Senators, including Senators SESSIONS and GRASSLEY, who have provided input for this bill and participated in the process. I am confident that this legislation will be enacted in a bipartisan fashion, just as the original Justice for All Act was, and I look forward to working with Democrats and Republicans to reach that goal.

The original Justice for All Act included the Debbie Smith DNA Backlog Reduction Program, which authorized significant funding to reduce the backlog of untested rape kits so that victims need not live in fear while kits languish in storage. That program is named after Debbie Smith, who lived in fear for years after being attacked before her rape kit was tested and the perpetrator was caught. She and her husband Rob have worked tirelessly to ensure that others need not experience the ordeal she went through. I thank Debbie and Rob for their continuing help on this extremely important cause.

Since we passed this important law in 2004, the Debbie Smith Act has resulted in hundreds of millions of dollars going to States for the testing of DNA samples to reduce backlogs. I have worked with Senators of both parties to ensure full funding for the Debbie Smith Act each year.

As I have researched the problem of untested rape kits, there is one thing that I have heard again and again: the Debbie Smith program has been working and is making a major difference. I have heard from the Justice Department, the States, including Vermont, law enforcement, and victims' advocates, that Debbie Smith grants have led to significant and meaningful backlog reductions and to justice for victims in jurisdictions across the country.

Unfortunately, despite the good strides we have made and the significant Federal funding for these efforts, we have seen alarming reports of continuing backlogs. A 2008 study found 12,500 untested rape kits in the Los Angeles area alone. While Los Angeles has since made progress in addressing the problem, other cities have now reported backlogs almost as severe. The Justice Department released a report last year finding that in 18 percent of open, unsolved rape cases, evidence had not even been submitted to a crime lab.

That Justice Department study gets to a key component of this problem that has not yet been addressed. No matter how much money we send to crime labs for testing, if samples that

could help close cases instead sit on the shelf in police evidence rooms and never make it to the lab, that money will do no good. Police officers must understand the importance of testing this vital evidence and must learn when testing is appropriate and necessary. In too many jurisdictions, rape kits taken from victims who put themselves through further hardship to take these samples—rape kits that could help law enforcement to get criminals off the street—are sitting untested.

The bill we introduce today will finally address this part of the problem by mandating that the Department of Justice develop practices and protocols for the processing of DNA evidence and provide technical assistance to State and local governments to implement those protocols. The bill authorizes funding to States and communities to reduce their rape kit backlogs at the law enforcement stage by training officers, improving practices, developing evidence tracking systems, and taking other key steps to make sure that this crucial evidence gets to the labs to be tested.

The bill will also help us get to the bottom of this problem by calling for the development of a standardized definition of ''backlog,'' covering both the law enforcement and lab stages, and by implementing public reporting requirements to help us to identify where the backlogs are. It also takes steps to ensure that labs test DNA samples in the best order so that those samples which can help secure justice for rape victims are tested most quickly. It will also put into place new accountability requirements to make sure that Debbie Smith Act money is being spent effectively and appropriately.

The bill makes important changes to existing law to ensure that no rape victims are ever required to pay for testing of their rape kits, and that these costs are covered with no strings attached. Senator FRANKEN has been a strong advocate of this important provision, and I thank him for his help.

We have also taken important new steps to ensure that defendants in serious cases receive adequate representation and, where appropriate, testing of relevant DNA samples. As a former prosecutor, I have great faith in the men and women in law enforcement, and I know that in the vast majority of cases, our criminal justice system does work fairly and effectively. I also know, however, that the system only works as it should when each side is well represented by competent and well-trained counsel, and when all relevant evidence is retained and tested. Sadly, we learn regularly of defendants released after new evidence exonerates them. We must do better. It is an outrage when an innocent person is punished, and it is doubly an outrage that, in those cases, the guilty person remains on the streets, able to commit more crimes, which makes all of us less safe.

This legislation takes important new steps to ensure that all criminal defendants, including those who cannot afford a lawyer, receive constitutionally adequate representation. It requires the Department of Justice to assist States that want help developing an effective and efficient system of indigent defense, and it establishes a cause of action for the Federal Government to step in when States are systematically failing to provide the representation called for in the Constitution.

This is a reasonable measure that gives the States assistance and time needed to make necessary changes and seeks to provide an incentive for States to do so. Prosecutors and defense attorneys recognize the importance of quality defense counsel. Houston District Attorney Patricia Lykos testified, quite persuasively, before the Judiciary Committee about how competent defense attorneys help her do her job as a prosecutor even better. I have also learned through this process that the most effective systems of indigent defense are not always the most expensive. In some cases, making the necessary changes may also save States money.

This legislation will also help ensure that the innocent are not punished while the guilty remain free by strengthening the Kirk Bloodsworth Post Conviction DNA Testing Grant Program, one of the key programs created in the Innocence Protection Act. Kirk Bloodsworth was a young man just out of the Marines when he was arrested, convicted, and sentenced to death for a heinous crime that he did not commit. He was the first person in the United States to be exonerated from a death row crime through the use of DNA evidence.

This program provides grants to States for testing in cases like Kirk's where someone has been convicted, but where significant DNA evidence was not tested. The last administration resisted implementing the program for several years, but we worked hard to see the program put into place. Now, money has gone out to a number of States, and the Committee has heard strong testimony that the program is making an impact. The legislation we introduce today expands the very modest authorization of funds to this important program and clarifies the conditions set for this program so that participating States are required to preserve key evidence, which is crucial, but are required to do so in a way that is attainable and will allow more States to participate.

The bill also asks states to produce comprehensive plans for their criminal justice systems, which will help to ensure that criminal justice systems operate effectively as a whole and that all parts of the system work together and receive the resources they need. The bill reauthorizes and improves key grant programs in a variety of areas throughout the criminal justice system. Importantly, it increases authorized funding for the Paul Coverdell Forensic Science Improvement Grant program, which is a vital program to assist forensic laboratories in performing the many forensic tests that are essential to solving crimes and prosecuting perpetrators. I appreciate Senator SESSIONS' longstanding support for this important program.

Finally, the legislation strengthens rights for victims of crime. It gives crime victims an affirmative right to be informed of all of their rights under the Crime Victims' Rights Act and other key laws, and it takes several steps to make it easier for crime victims to assert their legal rights in court. I thank Senators FEINSTEIN and KYL for their leadership in this area and their assistance in developing these provisions.

In these times of tight budgets, it is important to note that this bill would make all of these improvements without increasing total authorized funding under the Justice For All Act and that many of these changes will help States, communities, and the Federal Government save money in the long term.

Today, we rededicate ourselves to building a criminal justice system in which the innocent remain free, the guilty are punished, and all sides have the tools, resources, and knowledge they need to advance the cause of justice. Americans need and deserve a criminal justice system which keeps us safe, ensures fairness and accuracy, and fulfills the promise of our constitution. This bill will take important steps to bring us closer to that goal. I hope there will be strong bipartisan support for these efforts moving forward.

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. 3842

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 ''Justice for All Reauthorization Act of 2010''.

SEC. 2. CRIME VICTIMS' RIGHTS.

Section 3771 of title 18, United States Code, is amended—

(1) in subsection (a), by adding at the end the following:

''(9) The right to be informed of the rights under this section and the services described in section 503(c) of the Victims' Rights and Restitution Act of 1990 (42 U.S.C. 10607(c)) and provided contact information for the Office of the Victims' Rights Ombudsman of the Department of Justice.'';

(2) in subsection (d)(3), in the fifth sentence, by inserting '', unless the litigants, with the approval of the court, have stipulated to a different time period for consideration'' before the period; and

(3) in subsection (e)—

(A) by striking ''this chapter, the term'' and inserting the following: ''this chapter:

''(1) COURT OF APPEALS.—The term 'court of appeals' means—

''(A) for a violation of the United States Code, the United States court of appeals for the judicial district in which a defendant is being prosecuted; and

''(B) for a violation of the District of Columbia Code, the District of Columbia Court of Appeals.

''(2) CRIME VICTIM.—

''(A) IN GENERAL.—The term'';

(B) by striking ''In the case'' and inserting the following:

''(B) MINORS AND CERTAIN OTHER VICTIMS.—In the case''; and

(C) by adding at the end the following:

''(3) DISTRICT COURT; COURT.—The terms 'district court' and 'court' include the Superior Court of the District of Columbia.''.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS FOR GRANTS FOR CRIME VICTIMS.

(a) CRIME VICTIMS LEGAL ASSISTANCE GRANTS.—Section 103(b) of the Justice for All Act of 2004 (Public Law 108–405; 118 Stat. 2264) is amended—

(1) in paragraph (1), by striking ''$2,000,000'' and all that follows through ''2009'' and inserting ''$5,000,000 for each of fiscal years 2011, 2012, 2013, 2014, and 2015'';

(2) in paragraph (2), by striking ''$2,000,000'' and all that follows through ''2009,'' and inserting ''$5,000,000 for each of fiscal years 2011, 2012, 2013, 2014, and 2015'';

(3) in paragraph (3), by striking ''$300,000'' and all that follows through ''2009,'' and inserting ''$500,000 for each of fiscal years 2011, 2012, 2013, 2014, and 2015'';

(4) in paragraph (4), by striking ''$7,000,000'' and all that follows through ''2009,'' and inserting ''$11,000,000 for each of fiscal years 2011, 2012, 2013, 2014, and 2015''; and

(5) in paragraph (5), by striking ''$5,000,000'' and all that follows through ''2009,'' and inserting ''$7,000,000 for each of fiscal years 2011, 2012, 2013, 2014, and 2015''.

(b) CRIME VICTIMS NOTIFICATION GRANTS.—Section 1404E(c) of the Victims of Crime Act of 1984 (42 U.S.C. 10603e(c)) is amended by striking ''this section—'' and all that follows and inserting ''this section $5,000,000 for each of the fiscal years 2011, 2012, 2013, 2014 and 2015.''.

SEC. 4. DEBBIE SMITH DNA BACKLOG GRANT PROGRAM.

(a) IN GENERAL.—Section 2 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135) is amended to read as follows:

''SEC. 2. THE DEBBIE SMITH DNA BACKLOG GRANT PROGRAM.

''(a) DEFINITIONS.—In this section—

''(1) the term 'backlog for DNA case work' has the meaning given that term by the Director, in accordance with subsection (b)(3);

''(2) the term 'Combined DNA Index System' means the Combined DNA Index System of the Federal Bureau of Investigation;

''(3) the term 'Director' means the Director of the National Institute of Justice;

''(4) the term 'emergency response provider' has the meaning given that term in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101); and

''(5) the term 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

''(b) ESTABLISHMENT OF PROTOCOLS, TECHNICAL ASSISTANCE, AND DEFINITIONS OF EVIDENCE BACKLOG FOR DNA CASE WORK.—

''(1) PROTOCOLS AND PRACTICES.—Not later than 18 months after the date of enactment of the Justice for All Reauthorization Act of 2010, the Director shall develop and publish a description of protocols and practices the Director considers appropriate for the accurate, timely, and effective collection and processing of DNA evidence, including protocols and practices specific to sexual assault cases, which shall address appropriate steps in the investigation of cases that might involve DNA evidence, including—

''(A) how to determine—

''(i) which evidence is to be collected by law enforcement personnel and forwarded for testing;

''(ii) the preferred order in which evidence from the same case is to be tested; and

''(iii) the preferred order in which evidence from different cases is to be tested;

''(B) the establishment of a reasonable period of time in which evidence is to be forwarded by emergency response providers, law enforcement personnel, and prosecutors to a laboratory for testing;

''(C) the establishment of reasonable periods of time in which each stage of analytical laboratory testing is to be completed ; and

''(D) systems to encourage communication within a State or unit of local government among emergency response providers, law enforcement personnel, prosecutors, courts, defense counsel, crime laboratory personnel, and crime victims regarding the status of crime scene evidence to be tested.

''(2) TECHNICAL ASSISTANCE AND TRAINING.—The Director shall make available technical assistance and training to support States and units of local government in adopting and implementing the protocols and practices developed under paragraph (1) on and after the date on which the protocols and practices are published.

''(3) DEFINITION OF BACKLOG FOR DNA CASE WORK.—The Director shall develop and publish a definition of the term 'backlog for DNA case work' for purposes of this section—

''(A) taking into consideration the different stages at which a backlog may develop, including the investigation and prosecution of a crime by law enforcement personnel, prosecutors, and others, and the laboratory analysis of crime scene samples; and

''(B) which may include different criteria or thresholds for the different stages.

''(c) AUTHORIZATION OF GRANTS FOR THE COLLECTION AND PROCESSING OF DNA EVIDENCE BY LAW ENFORCEMENT.—

''(1) PURPOSE.—The Attorney General may make grants to States or units of local government which may be used to—

''(A) ensure that the collection and processing of DNA evidence from crimes, including sexual assault and other serious violent crimes, is carried out in an appropriate and timely manner;

''(B) eliminate existing backlogs for DNA case work, including backlogs from sexual assault cases; and

''(C) ensure effective communication among emergency response providers, law enforcement personnel, prosecutors, courts, defense counsel, crime laboratory personnel, and crime victims regarding the status of crime scene evidence to be tested.

''(2) APPLICATION.—A State or unit of local government desiring a grant under this subsection shall submit to the Attorney General an application in such form and containing such information as the Attorney General may require, which shall include—

''(A) providing assurances that the State or unit of local government has implemented, or will implement not later than 120 days after the date of the application, a comprehensive plan for the expeditious collection and processing of DNA evidence in accordance with this section; and

''(B) specifying the percentage of the amounts received under the grant that the State or unit of local government shall use for the purpose specified in each of subparagraphs (A), (B), and (C) of paragraph (1).

''(3) COLLECTION AND PROCESSING OF SAMPLES.—A plan described in paragraph (2)(A)—

''(A) shall require a State or unit of local government to—

''(i) adopt the appropriate protocols and practices developed under subsection (b)(1); and

''(ii) ensure that emergency response providers, law enforcement personnel, prosecutors, and crime laboratory personnel within the jurisdiction of the State or unit of local government receive training on the content and appropriate use of the protocols and practices; and

''(B) may include the development and implementation within the State or unit of local government of an evidence tracking system to ensure effective communication among emergency response providers, law enforcement personnel, prosecutors, defense counsel, courts, crime laboratory personnel, and crime victims regarding the status of crime scene evidence subject to DNA analysis.

''(4) REPORTING AND PUBLICATION OF DNA BACKLOGS.—

''(A) IN GENERAL.—A plan described in paragraph (2)(A) shall require a State or unit of local government to submit to the Attorney General an annual report reflecting the current backlog for DNA case work within the jurisdiction in which the funds are used, which shall include—

''(i) a specific breakdown of the number of sexual assault cases that are in a backlog for DNA case work and the percentage of the amounts received under the grant allocated to reducing the backlog of DNA case work in sexual assault cases;

''(ii) for each case that is in a backlog for DNA case work, the identity of each agency, office, or contractor of the State or unit of local government in which work necessary to complete the DNA analysis is pending; and

''(iii) any other information the Attorney General determines appropriate.

''(B) COMPILATION.—The Attorney General shall annually compile and publish the reports submitted under subparagraph (A) on the website of the Department of Justice.

''(d) AUTHORIZATION OF GRANTS FOR DNA TESTING AND ANALYSIS BY LABORATORIES.—

''(1) PURPOSE.—The Attorney General may make grants to States or units of local government to—

''(A) carry out, for inclusion in the Combined DNA Index System, DNA analyses of samples collected under applicable legal authority;

''(B) carry out, for inclusion in the Combined DNA Index System, DNA analyses of samples from crime scenes, including samples from rape kits, samples from other sexual assault evidence, and samples taken in cases without an identified suspect;

''(C) increase the capacity of laboratories owned by the State or unit of local government to carry out DNA analyses of samples specified in subparagraph (A) or (B);

''(D) collect DNA samples specified in subparagraph (A); and

''(E) ensure that DNA testing and analysis of samples from crimes, including sexual assault and other serious violent crimes, are carried out in a timely manner.

''(2) APPLICATION.—A State or unit of local government desiring a grant under this subsection shall submit to the Attorney General an application in such form and containing such information as the Attorney General may require, which shall include—

''(A) providing assurances that the State or unit of local government has implemented, or will implement not later than 120 days after the date of the application, a comprehensive plan for the expeditious DNA analysis of samples in accordance with this section;

''(B) certifying that each DNA analysis carried out under the plan shall be maintained in accordance with the privacy requirements described in section 210304(b)(3) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14132(b)(3));

''(C) specifying the percentage of the amounts received under the grant that the State or unit of local government shall use to carry out DNA analyses of samples described in paragraph (1)(A) and the percentage of the amounts the State or unit of local government shall use to carry out DNA analyses of samples described in paragraph (1)(B);

''(D) specifying the percentage of the amounts received under the grant that the State or unit of local government shall use for a purpose described in paragraph (1)(C);

''(E) if submitted by a unit of local government, certifying that the unit of local government has taken, or is taking, all necessary steps to ensure that the unit of local government is eligible to include in the Combined DNA Index System, directly or through a State law enforcement agency, all analyses of samples for which the unit of local government has requested funding; and

''(F) specifying the percentage of the amounts received under the grant that the State or unit of local government shall use for the purpose described in paragraph (1)(D).

''(3) ANALYSIS OF SAMPLES.—

''(A) IN GENERAL.—A plan described in paragraph (2)(A) shall require that, except as provided in subparagraph (C), each DNA analysis be carried out in a laboratory that—

''(i) satisfies quality assurance standards; and

''(ii) is—

''(I) operated by the State or a unit of local government; or

''(II) operated by a private entity pursuant to a contract with the State or a unit of local government.

''(B) QUALITY ASSURANCE STANDARDS.—

''(i) IN GENERAL.—The Director of the Federal Bureau of Investigation shall maintain and make available to States and units of local government a description of quality assurance protocols and practices that the Director of the Federal Bureau of Investigation considers adequate to assure the quality of a forensic laboratory.

''(ii) EXISTING STANDARDS.—For purposes of this paragraph, a laboratory satisfies quality assurance standards if the laboratory satisfies the quality control requirements described in paragraphs (1) and (2) of section 210304(b) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14132(b)).

''(4) USE OF VOUCHERS OR CONTRACTS FOR CERTAIN PURPOSES.—

''(A) IN GENERAL.—A grant for a purpose specified in subparagraph (A), (B), (E), or (F) of paragraph (1) may be made in the form of a voucher or contract for laboratory services, even if the laboratory makes a reasonable profit for the services.

''(B) REDEMPTION.—A voucher or contract under subparagraph (A) may be redeemed at a laboratory operated on a nonprofit or for-profit basis, by a private entity that satisfies quality assurance standards and has been approved by the Attorney General.

''(C) PAYMENTS.—The Attorney General may use amounts appropriated to carry out this section to make payments to a laboratory described under subparagraph (B).

''(5) REPORTING AND PUBLICATION OF DNA BACKLOGS.—

''(A) IN GENERAL.—A plan described in paragraph (2)(A) shall require the State or unit of local government to submit to the Attorney General an annual report reflecting the backlog for DNA case work within the jurisdiction in which the funds will be used, which shall include—

''(i) a specific breakdown of the number of sexual assault cases that are in a backlog for DNA case work and the percentage of the amounts received under the grant allocated to reducing the backlog of DNA case work in sexual assault cases;

''(ii) for each case that is in a backlog for DNA case work, the identity of each agency, office, or contractor of the State or unit of local government in which work necessary to complete the DNA analysis is pending; and

''(iii) any other information the Attorney General determines appropriate.

''(B) COMPILATION.—The Attorney General shall annually compile and publish the reports submitted under subparagraph (A) on the website of the Department of Justice.

''(e) FORMULA FOR DISTRIBUTION OF GRANTS.—

''(1) IN GENERAL.—Subject to paragraphs (2) and (3), the Attorney General shall distribute grant amounts, and establish appropriate grant conditions under this section, in conformity with a formula or formulas that are designed to effectuate a distribution of funds among States and units of local government applying for grants under this section that—

''(A) maximizes the effective use of DNA technology to solve crimes and protect public safety; and

''(B) allocates grants among States and units of local government fairly and efficiently, across rural and urban jurisdictions, to address States and units of local government in which significant backlogs for DNA case work exist, by considering—

''(i) the number of offender and casework samples awaiting DNA analysis in a State or unit of local government;

''(ii) the population in the State or unit of local government;

''(iii) the number of part 1 violent crimes in the State or unit of local government; and

''(iv) the availability of resources to train emergency response providers, law enforcement personnel, prosecutors, and crime laboratory personnel on the effectiveness of appropriate and timely DNA collection, processing, and analysis.

''(2) MINIMUM AMOUNT.—The Attorney General shall allocate to each State not less than 0.50 percent of the total amount appropriated in a fiscal year for grants under this section, except that the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands shall each be allocated 0.125 percent of the total amount appropriated in a fiscal year for grants under this section.

''(3) LIMITATION.—In distributing grant amounts under paragraph (1), the Attorney General shall ensure that for each of fiscal years 2011 through 2015, not less than 40 percent of the grant amounts are awarded for purposes described in subsection (d)(1)(B).

''(f) RESTRICTIONS ON USE OF FUND.—

''(1) NONSUPPLANTING.—Funds made available under this section shall not be used to supplant funds of a State or unit of local government, and shall be used to increase the amount of funds that would, in the absence of Federal funds, be made available from the State or unit of local government for the purposes described in this Act.

''(2) ADMINISTRATIVE COSTS.—A State or unit of local government may not use more than 3 percent of the amounts made available under a grant under this section for administrative expenses relating to the grant.

''(g) REPORTS TO THE ATTORNEY GENERAL.—Each State or unit of local government that receives a grant under this section shall submit to the Attorney General, for each year in which funds from a grant received under this section are expended, a report at such time and in such manner as the Attorney General may reasonably require, that contains—

''(1) a summary of the activities carried out under the grant and an assessment of whether such activities are meeting the needs identified in the application; and

''(2) such other information as the Attorney General may require.

''(h) REPORTS TO CONGRESS.—Not later than 90 days after the end of each fiscal year for which grants are made under this section, the Attorney General shall submit to Congress a report that includes—

''(1) the aggregate amount of grants made under this section to each State or unit of local government for the fiscal year;

''(2) a summary of the information provided by States or units of local government receiving grants under this section; and

''(3) a description of the priorities and plan for awarding grants among eligible States and units of local government, and how the plan will ensure the effective use of DNA technology to solve crimes and protect public safety.

''(i) EXPENDITURE RECORDS.—

''(1) IN GENERAL.—Each State or unit of local government that receives a grant under this section shall keep such records as the Attorney General may require to facilitate an effective audit of the receipt and use of grant funds received under this section.

''(2) ACCESS.—Each State or unit of local government that receives a grant under this section shall make available, for the purpose of audit and examination, any records relating to the receipt or use of the grant.

''(j) USE OF FUNDS FOR ACCREDITATION AND AUDITS.—The Attorney General may distribute not more than 1 percent of the amounts made available for grants under this section for a fiscal year—

''(1) to States or units of local government to defray the costs incurred by laboratories operated by each such State or unit of local government in preparing for accreditation or reaccreditation;

''(2) in the form of additional grants to States, units of local government, or nonprofit professional organizations of persons actively involved in forensic science and nationally recognized within the forensic science community to—

''(A) defray the costs of external audits of laboratories operated by the State or unit of local government, which participates in the National DNA Index System, to determine whether the laboratory is in compliance with quality assurance standards;

''(B) assess compliance with any plans submitted to the Director that detail the use of funds received by States or units of local government under this section; and

''(C) support capacity building efforts; and

''(3) in the form of additional grants to nonprofit professional associations actively involved in forensic science and nationally recognized within the forensic science community to defray the costs of training persons who conduct external audits of laboratories operated by States and units of local government and which participate in the National DNA Index System.

''(k) USE OF FUNDS FOR OTHER FORENSIC SCIENCES.—The Attorney General may make a grant under this section to a State or unit of local government to alleviate a backlog of cases with respect to a forensic science other than DNA analysis if the State or unit of local government—

''(1) certifies to the Attorney General that in such State or unit—

''(A) all of the purposes set forth in subsections (c) and (d) have been met;

''(B) there is not a backlog for DNA case work, as defined by the Director in accordance with subsection (b)(3); and

''(C) there is no need for significant laboratory equipment, supplies, or additional personnel for timely processing of DNA case work or offender samples; and

''(2) demonstrates to the Attorney General that the State or unit of local government requires assistance in alleviating a backlog

of cases involving a forensic science other than DNA analysis.

''(l) EXTERNAL AUDITS AND REMEDIAL EFFORTS.—If a laboratory operated by a State or unit of local government which has received funds under this section has undergone an external audit conducted to determine whether the laboratory is in compliance with standards established by the Director of the Federal Bureau of Investigation, and, as a result of the audit, identifies measures to remedy deficiencies with respect to the compliance by the laboratory with the standards, the State or unit of local government shall implement any such remediation as soon as practicable.

''(m) PENALTY FOR NONCOMPLIANCE.—

''(1) IN GENERAL.—The Attorney General shall annually compile a list of the States and units of local government receiving a grant under this section that have failed to provide the information required under subsection (c)(4)(A), (d)(5)(A), or (g). The Attorney General shall publish each list complied under this paragraph on the website of the Department of Justice.

''(2) REDUCTION IN GRANT FUNDS.—For any State or local government that the Attorney General determines has failed to provide the information required under subsection (c)(4)(A), (d)(5)(A), or (g), the Attorney General may not award a grant under this section for the fiscal year after the fiscal year to which the determination relates in an amount that is more than 50 percent of the amount the State or local government would have otherwise received.

''(n) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General for grants under subsections (c) and (d) $151,000,000 for each of fiscal years 2011 through 2015.''.

(b) REPORT.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall evaluate the policies, standards, and protocols relating to the use of private laboratories in the analysis of DNA evidence, including the mandatory technical review of all outsourced DNA evidence by public laboratories prior to uploading DNA profiles into the Combined DNA Index System of the Federal Bureau of Investigation. The evaluation shall take into consideration the need to reduce DNA evidence backlogs while guaranteeing the integrity of the Combined DNA Index System.

(2) REPORT TO CONGRESS.—Not later than 30 days after the date on which the Director of the Federal Bureau of Investigation completes the evaluation under paragraph (1), the Director shall submit to Congress a report of the findings of the evaluation and any proposed policy changes.

(c) TRANSITION PROVISION.—

(1) DEFINITION.—In this subsection, the term ''transition date'' means the day after the latter of—

(A) the date on which the Director of the National Institute of Justice publishes a definition of the term ''backlog for DNA case work'' in accordance with section 2(b)(3) of the DNA Analysis Backlog Elimination Act of 2000, as amended by subsection (a); and

(B) the date on which the Director of the National Institute of Justice publishes a description of protocols and practices in accordance with section 2(b)(1) of the DNA Analysis Backlog Elimination Act of 2000, as amended by subsection (a).

(2) GRANT AUTHORITY.—Notwithstanding the amendments made by subsection (a)—

(A) the Attorney General may make grants under section 2 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135), as in effect on the day before the date of enactment of this Act, until the transition date; and

(B) the Attorney General may not make a grant under section 2 of the DNA Analysis Backlog Elimination Act of 2000, as amended by subsection (a), until the transition date.

SEC. 5. RAPE EXAM PAYMENTS.

Section 2010 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–4) is amended—

(1) in subsection (a)(1)—

(A) by striking ''entity incurs the full'' and inserting the following: ''entity—

''(A) incurs the full'';

(B) by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(B) coordinates with regional health care providers to notify victims of sexual assault of the availability of rape exams at no cost to the victims.'';

(2) in subsection (b)—

(A) in paragraph (1), by adding ''or'' at the end;

(B) in paragraph (2), by striking ''; or'' and inserting a period; and

(C) by striking paragraph (3); and

(3) in subsection (d), by striking ''(d) RULE OF CONSTRUCTION.—'' and all that follows through the end of paragraph (1) and inserting the following:

''(d) NONCOOPERATION.—

''(1) IN GENERAL.—To be in compliance with this section, a State, Indian tribal government, or unit of local government shall comply with subsection (b) without regard to whether the victim participates in the criminal justice system or cooperates with law enforcement.''.

SEC. 6. ADDITIONAL REAUTHORIZATIONS.

(a) DNA RESEARCH AND DEVELOPMENT.—Section 305(c) of the Justice for All Act of 2004 (42 U.S.C. 14136b(c)) is amended by striking ''fiscal years 2005 through 2009'' and inserting ''fiscal years 2011 through 2015''.

(b) FBI DNA PROGRAMS.—Section 307(a) of the Justice for All Act of 2004 (Public Law 108–405; 118 Stat. 2275)) is amended by striking ''fiscal years 2005 through 2009'' and inserting ''fiscal years 2011 through 2015''.

(c) DNA IDENTIFICATION OF MISSING PERSONS.—Section 308(c) of the Justice for All Act of 2004 (42 U.S.C. 14136d(c)) is amended by striking ''fiscal years 2005 through 2009'' and inserting ''fiscal years 2011 through 2015''.

SEC. 7. PAUL COVERDELL FORENSIC SCIENCES IMPROVEMENT GRANTS.

Section 1001(a)(24) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(24)) is amended—

(1) in subparagraph (H), by striking ''and'' at the end;

(2) in subparagraph (I), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(K) $35,000,000 for each of fiscal years 2011 through 2015.''.

SEC. 8. IMPROVING THE QUALITY OF REPRESENTATION IN STATE CAPITAL CASES.

Section 426 of the Justice for All Act of 2004 (42 U.S.C. 14163e) is amended—

(1) in subsection (a), by striking ''$75,000,000 for each of fiscal years 2005 through 2009'' and inserting ''$50,000,000 for each of fiscal years 2011 through 2015''; and

(2) in subsection (b), by inserting before the period at the end the following: '', or upon a showing of good cause, and at the discretion of the Attorney General, the State may determine a fair allocation of funds across the uses described in sections 421 and 422.''.

SEC. 9. POST-CONVICTION DNA TESTING.

(a) IN GENERAL.—Section 3600 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1)(B)(i), by striking ''death''; and

(B) in paragraph (3)(A), by striking ''and the applicant did not—'' and all that follows through ''knowingly fail to request'' and inserting ''and the applicant did not knowingly fail to request''; and

(2) in subsection (g)(2)(B), by striking ''death''.

(b) PRESERVATION OF BIOLOGICAL EVIDENCE.—Section 3600A(c) of title 18, United States Code, is amended—

(1) by striking paragraph (2); and

(2) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively.

SEC. 10. INCENTIVE GRANTS TO STATES TO ENSURE CONSIDERATION OF CLAIMS OF ACTUAL INNOCENCE.

(a) IN GENERAL.—Section 413 of the Justice for All Act of 2004 (42 U.S.C. 14136 note) is amended—

(1) in the matter preceding paragraph (1), by striking ''fiscal years 2005 through 2009'' and inserting ''fiscal years 2011 through 2015''; and

(2) by striking paragraph (2) and inserting the following:

''(2) provide a certification by the chief legal officer of the State in which the eligible entity operates or the chief legal officer of the jurisdiction in which the funds will be used for the purposes of the grants, that the State or jurisdiction—

''(A) provides DNA testing of specified evidence under a State statute to persons convicted after trial and under a sentence of imprisonment or death for a State felony offense, in a manner that ensures a reasonable process for resolving claims of actual innocence consistent with section 3600(a) of title 18, United States Code (which may include making post-conviction DNA testing available in cases in which the testing would not be required under that section) and, if the results of the testing exclude the applicant as the perpetrator of the offense, permits the applicant to apply for post-conviction relief, notwithstanding any provision of law that would otherwise bar the application as untimely; and

''(B) preserves biological evidence under a State statute or a State or local rule, regulation, or practice in a manner intended to ensure that reasonable measures are taken by the State or jurisdiction to preserve biological evidence secured in relation to the investigation or prosecution of a State felony offense (including, at a minimum murder, nonnegligent manslaughter and sexual offenses) in a manner consistent with section 3600A of title 18, United States (which may require preservation of biological evidence for longer than the period of time that the evidence would be required to be preserved under that section).''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 412(b) of the Justice for All Act of 2004 (42 U.S.C. 14136e(b)) is amended—

(1) by striking ''fiscal years 2005 through 2009'' and inserting ''fiscal years 2011 through 2015''; and

(2) by striking ''$5,000,000'' and inserting ''$10,000,000''.

SEC. 11. ESTABLISHMENT OF NATIONAL STANDARDS PROMULGATED BY NIJ.

(a) IN GENERAL.—Subtitle A of title IV of the Justice for All Act of 2004 (Public Law 108–405; 118 Stat. 2278) is amended by adding at the end the following:

''SEC. 414. ESTABLISHMENT OF NATIONAL STANDARDS PROMULGATED BY NIJ.

''(a) IN GENERAL.—The Director of the National Institute of Justice shall—

''(1) establish best practices for evidence retention; and

''(2) assist State, local, and tribal governments in adopting and implementing the best practices established under paragraph (1).

''(b) DEADLINE.—Not later than 1 year after the date of enactment of this section, the Director of the National Institute of Justice

shall publish the best practices established under subsection (a)(1).''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Justice for All Act of 2004 (Public Law 108–405; 118 Stat. 2260) is amended by inserting after the item relating to section 413 the following:

''Sec. 414. Establishment of national standards promulgated by NIJ.''.

SEC. 12. EFFECTIVE ADMINISTRATION OF CRIMINAL JUSTICE.

(a) SHORT TITLE.—This section may be cited as the ''Effective Administration of Criminal Justice Act of 2010''.

(b) STRATEGIC PLANNING.—Section 502 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3752) is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''To request a grant''; and

(2) by adding at the end the following:

''(6) A comprehensive State-wide plan detailing how grants received under this section will be used to improve the administration of the criminal justice system, which shall—

''(A) be designed in consultation with local governments, and all segments of the criminal justice system, including judges, prosecutors, law enforcement personnel, corrections personnel, and providers of indigent defense services, victim services, juvenile justice delinquency prevention programs, community corrections, and reentry services;

''(B) include a description of how the State will allocate funding within and among each of the uses described in subparagraphs (A) through (G) of section 501(a)(1);

''(C) describe the process used by the State for gathering evidence-based data and developing and using evidence-based and evidence-gathering approaches in support of funding decisions; and

''(D) be updated every 5 years, with annual progress reports that—

''(i) address changing circumstances in the State, if any;

''(ii) describe how the State plans to adjust funding within and among each of the uses described in subparagraphs (A) through (G) of section 501(a)(1);

''(iii) provide an ongoing assessment of need;

''(iv) discuss the accomplishment of goals identified in any plan previously prepared under this paragraph; and

''(v) reflect how the plan influenced funding decisions in the previous year.

''(b) TECHNICAL ASSISTANCE.—

''(1) STRATEGIC PLANNING.—Not later than 90 days after the date of enactment of this subsection, the Attorney General shall begin to provide technical assistance to States and local governments requesting support to develop and implement the strategic plan required under subsection (a)(6).

''(2) PROTECTION OF CONSTITUTIONAL RIGHTS.—Not later than 90 days after the date of enactment of this subsection, the Attorney General shall begin to provide technical assistance to States and local governments, including any agent thereof with responsibility for administration of justice, requesting support to meet the obligations established by the Sixth Amendment to the Constitution of the United States, which shall include—

''(A) public dissemination of practices, structures, or models for the administration of justice consistent with the requirements of the Sixth Amendment; and

''(B) assistance with adopting and implementing a system for the administration of justice consistent with the requirements of the Sixth Amendment.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $5,000,000 for each of fiscal years 2011 through 2015 to carry out this subsection.''.

(c) PROTECTION OF CONSTITUTIONAL RIGHTS.—

(1) UNLAWFUL CONDUCT.—It shall be unlawful for any governmental authority, or any agent thereof, or any person acting on behalf of a governmental authority, to engage in a pattern or practice of conduct by officials or employees of any governmental agency with responsibility for the administration of justice, including the administration of programs or services that provide appointed counsel to indigent defendants, that deprives persons of their rights to assistance of counsel as protected under the Sixth Amendment and Fourteenth Amendment to the Constitution of the United States.

(2) CIVIL ACTION BY ATTORNEY GENERAL.—Whenever the Attorney General has reasonable cause to believe that a violation of paragraph (1) has occurred, the Attorney General, for or in the name of the United States, may, in a civil action, obtain appropriate equitable and declaratory relief to eliminate the pattern or practice.

(3) EFFECTIVE DATE.—This subsection shall take effect 2 years after the date of enactment.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 647—EXPRESSING THE 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, Mr. INHOFE, Mrs. LINCOLN, Mr. GRASSLEY, Mrs. MURRAY, Mr. DEMINT, Mr. KERRY, Ms. COLLINS, Mr. NELSON, of Nebraska, Mr. ENZI, Mr. CARDIN, Mr. VOINOVICH, Mr. FRANKEN, Mr. THUNE, Mr. CONRAD, Mr. COBURN, Mr. MERKLEY, Mr. BROWNBACK, Mr. JOHNSON, Mr. BENNETT, Mr. ROCKEFELLER, Mr. ALEXANDER, Mrs. HUTCHISON, Mr. LEMIEUX, Mrs. GILLIBRAND, Mr. LUGAR, Ms. KLOBUCHAR, Mr. LAUTENBERG, Mr. WYDEN, Mr. INOUYE, and Mr. CORNYN) submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. RES. 647

Whereas there are approximately 463,000 children in the foster care system in the United States, approximately 123,000 of whom are waiting for families to adopt them;

Whereas 55 percent of the children in foster care are age 10 or younger;

Whereas the average length of time a child spends in foster care is over 2 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 29,000 foster youth age out every year;

Whereas everyday, 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 30,000 children have joined forever families during National Adoption Day;

Whereas, in 2009, adoptions were finalized for nearly 5,000 children through 400 National Adoption Day events in all 50 States, the District of Columbia, Puerto Rico, and Guam; and

Whereas the President traditionally issues an annual proclamation to declare November as National Adoption Month, and National Adoption Day is on November 20, 2010: Now, therefore, be it

Resolved, That the Senate—

(1) supports the goals and ideals of National Adoption Day and National Adoption Month;

(2) recognizes that every child should have a permanent and loving family; and

(3) encourages the people of the United States to consider adoption during the month of November and all throughout the year.

SENATE RESOLUTION 648—DESIGNATING THE WEEK BEGINNING ON MONDAY, NOVEMBER 8, 2010, AS ''NATIONAL VETERANS HISTORY PROJECT WEEK''

Mr. CRAPO (for himself, Mrs. LINCOLN, Mrs. SHAHEEN, and Mr. DORGAN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 648

Whereas 2010 marks the 10th anniversary of the establishment of the Veterans History Project by Congress in order to collect and preserve the wartime stories of veterans of the Armed Forces of the United States;

Whereas Congress charged the American Folklife Center at the Library of Congress to

undertake the Veterans History Project and to engage the public in the creation of a collection of oral histories that would be a lasting tribute to individual veterans;

Whereas the Veterans History Project relies on a corps of volunteer interviewers, partner organizations, and an array of civic minded institutions nationwide who interview veterans according to the guidelines outlined by the project;

Whereas these oral histories have created an abundant resource for scholars to gather first-hand accounts of veterans' experience in World War I, World War II, the Korean War, the Vietnam War, the Persian Gulf War, and the Afghanistan and Iraq conflicts;

Whereas there are 17,000,000 wartime veterans in the United States whose stories can educate people of all ages about important moments and events in the history of the United States and the world and provide instructive narratives that illuminate the meanings of ''service'', ''sacrifice'', ''citizenship'', and ''democracy'';

Whereas more than 70,000 oral histories have already been collected and more than 8,000 oral histories are fully digitized and available through the website of the Library of Congress;

Whereas the Veterans History Project will increase the number of oral histories that can be collected and preserved and increase the number of veterans it honors; and

Whereas ''National Veterans Awareness Week'' has been recognized by Congress in previous years: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week beginning on Monday, November 8, 2010, as ''National Veterans History Project Week'';

(2) recognizes ''National Veterans Awareness Week'';

(3) calls on the people of the United States to interview at least 1 veteran in their families or communities according to guidelines provided by the Veterans History Project; and

(4) encourages national, State, and local organizations along with Federal, State, city, and county governmental institutions to participate in support of the effort to document, preserve, and honor the service of veterans of the Armed Forces of the United States.

SENATE RESOLUTION 649—SUPPORTING THE GOALS AND IDEALS OF ''NATIONAL SAVE FOR RETIREMENT WEEK'', INCLUDING RAISING PUBLIC AWARENESS OF THE VARIOUS TAX-PREFERRED RETIREMENT VEHICLES AND INCREASING PERSONAL FINANCIAL LITERACY

Mr. CONRAD (for himself, Mr. ENZI, and Mr. CARDIN) submitted the following resolution; which was considered and agreed to:

S. RES. 649

Whereas people in the United States are living longer, and the cost of retirement is increasing significantly;

Whereas Social Security remains the bedrock of retirement income for the great majority of the people of the United States but was never intended by Congress to be the sole source of retirement income for families;

Whereas recent data from the Employee Benefit Research Institute indicates that, in the United States, less than ⅔ of workers or their spouses are currently saving for retirement and that the actual amount of retirement savings of workers lags far behind the amount that will be needed to adequately fund their retirement years;

Whereas financial literacy is an important factor in United States workers' understanding of the true need to save for retirement;

Whereas saving for one's retirement is a key component to overall financial health and security during retirement years, and the importance of financial literacy in planning one's retirement must be advocated;

Whereas many workers may not be aware of their options for saving for retirement or may not have focused on the importance of, and need for, saving for their own retirement;

Whereas many employees have available to them, through their employers, access to defined benefit and defined contribution plans to assist them in preparing for retirement, yet many of those employees may not be taking advantage of those plans at all or to the full extent allowed by those plans as prescribed by Federal law;

Whereas the need to save for retirement is important, even during economic downturns or market declines, making continued contributions all the more important;

Whereas all workers, including public- and private-sector employees, employees of tax-exempt organizations, and self-employed individuals, can benefit from increased awareness of the need to develop personal budgets and financial plans that include retirement savings strategies and to take advantage of the availability of tax-preferred savings vehicles to assist them in saving for retirement; and

Whereas October 17 through October 23, 2010, has been designated as ''National Save for Retirement Week'': Now, therefore, be it

Resolved, That the Senate—

(1) supports the goals and ideals of ''National Save for Retirement Week'', including raising public awareness of the various tax-preferred retirement vehicles as important tools for personal savings and retirement financial security;

(2) supports the need to raise public awareness of the availability of a variety of ways to save for retirement which are favored under the Internal Revenue Code of 1986 and are utilized by many Americans, but which should be utilized by more;

(3) supports the need to raise public awareness of the importance of saving adequately for retirement and the continued existence of tax preferred employer-sponsored retirement savings vehicles; and

(4) calls on the States, localities, schools, universities, nonprofit organizations, businesses, other entities, and the people of the United States to observe National Save for Retirement Week with appropriate programs and activities, with the goal of increasing retirement savings for all the people of the United States.

SENATE RESOLUTION 650—DESIGNATING THE WEEK OF OCTOBER 24 THROUGH OCTOBER 30, 2010, AS ''NATIONAL CHILDHOOD LEAD POISONING PREVENTION WEEK''

Mr. REED (for himself, Ms. COLLINS, Mr. CARDIN, Mr. WHITEHOUSE, Mr. MENENDEZ, Mr. DODD, Mrs. BOXER, and Mr. JOHANNS) submitted the following resolution; which was considered and agreed to:

S. RES. 650

Whereas lead poisoning is one of the leading environmental health hazards facing children in the United States;

Whereas approximately 200,000 children in the United States under the age of 6 have harmful levels of lead in their blood;

Whereas lead poisoning may cause serious, long-term harm to children, including reduced intelligence and attention span, behavioral problems, learning disabilities, and impaired growth;

Whereas children from low-income families are significantly more likely to be poisoned by lead than are children from high-income families;

Whereas children may be poisoned by lead in water, soil, housing, or consumable products;

Whereas children most often are poisoned in their homes through exposure to lead particles when lead-based paint deteriorates or is disturbed during home renovation and repainting; and

Whereas lead poisoning crosses all barriers of race, income, and geography: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week of October 24 through October 30, 2010, as ''National Childhood Lead Poisoning Prevention Week''; and

(2) calls upon the people of the United States to observe National Childhood Lead Poisoning Prevention Week with appropriate programs and activities.

SENATE RESOLUTION 651—RECOGNIZING THE 20TH ANNIVERSARY OF THE DESIGNATION OF THE MONTH OF SEPTEMBER OF 1991 AS ''NATIONAL RICE MONTH''

Mr. REID (for Mrs. LINCOLN (for herself, Mr. COCHRAN, Mrs. FEINSTEIN, Mr. PRYOR, Ms. LANDRIEU, Mrs. BOXER, Mr. VITTER, Mrs. MCCASKILL, Mr. BOND, Mr. WICKER, and Mr. CORNYN)) submitted the following resolution; which was considered and agreed to:

S. RES. 651

Whereas rice is a primary staple for more than half of the population of the world and has been one of the most important foods throughout history;

Whereas rice production in the United States dates back to 1685 and is one of the oldest agribusinesses in the United States;

Whereas rice grown in the United States significantly contributes to the diet and economy of the United States;

Whereas rice is produced in the States of Arkansas, California, Louisiana, Mississippi, Missouri, and Texas;

Whereas rice production, processing, merchandizing, and related industries in the United States are vital to the economies of the rural areas of the Sacramento Valley in the State of California, the Gulf Coast region of the States of Louisiana and Texas, and the Mississippi Delta region where more than 3,000,000 acres of rice, on average, are produced annually;

Whereas, in 2009, rice farmers in the United States produced nearly 22,000,000,000 pounds of rice that had a farm gate value of more than $3,000,000,000;

Whereas, in 2009, rice production and subsequent sales generated $17,500,000,000 in total value added to the economy of the United States from rice production, milling, and selected end users and had the employment effect of contributing 127,000 jobs to the labor force;

Whereas eighty-five percent of the rice consumed in the United States is grown by American rice farmers, which supports rural communities and the economy of the United States;

Whereas the United States is one of the largest exporters of rice and produces more

than two percent of the world's rice supply, feeding millions around the world;

Whereas rice is a food enjoyed throughout life in many forms, as the foundation of main dishes and side dishes, and as cereals, flour, bran, cooking oil, rice cakes, and other healthful snacks;

Whereas rice is an important source of nutritional value, as rice provides an excellent source of complex carbohydrates, and is cholesterol-free, sodium-free, and trans fat-free;

Whereas published research shows that people who eat rice have healthier diets;

Whereas rice farmers in the United States play a key role in the provision and enhancement of habitat for wetlands-dependant wildlife species, such as ducks, geese, swans, and cranes; and

Whereas the harvest of rice in the United States is celebrated each September and September 2010 marks the 20th anniversary of that annual celebration's designation: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the 20th anniversary of the designation of the month of September of 1991 as ''National Rice Month''; and

(2) encourages the people of the United States to observe National Rice Month with appropriate ceremonies and activities.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4659. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 3816, to amend the Internal Revenue Code of 1986 to create American jobs and to prevent the offshoring of such jobs overseas; which was ordered to lie on the table.

SA 4660. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 3816, supra; which was ordered to lie on the table.

SA 4661. Mr. DURBIN (for Mr. LIEBERMAN) proposed an amendment to the bill H.R. 553, to require the Secretary of Homeland Security to develop a strategy to prevent the over-classification of homeland security and other information and to promote the sharing of unclassified homeland security and other information, and for other purposes.

SA 4662. Mr. WYDEN (for himself, Mrs. MURRAY, and Mr. MERKLEY) submitted an amendment intended to be proposed by him to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table.

SA 4663. Mr. CASEY (for Mr. AKAKA (for himself and Mr. VOINOVICH)) proposed an amendment to the bill H.R. 946, to enhance citizen access to Government information and services by establishing that Government documents issued to the public must be written clearly, and for other purposes.

SA 4664. Mr. CASEY (for Mr. LIEBERMAN) proposed an amendment to the bill S. 1510, to transfer statutory entitlements to pay and hours of work authorized by laws codified in the District of Columbia Official Code for current members of the United States Secret Service Uniformed Division from such laws to the United States Code, and for other purposes.

SA 4665. Mr. CASEY (for Mrs. FEINSTEIN (for herself and Mr. BOND)) proposed an amendment to the bill H.R. 2701, to authorize appropriations for fiscal year 2010 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

SA 4666. Mr. CASEY (for Ms. MURKOWSKI) proposed an amendment to the bill S. 3802, to designate a mountain and icefield in the State of Alaska as the ''Mount Stevens'' and ''Ted Stevens Icefield'', respectively.

TEXT OF AMENDMENTS

SA 4659. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 3816, to amend the Internal Revenue Code of 1986 to create American jobs and to prevent the offshoring of such jobs overseas; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE III—VISA REFORM

SEC. 301. SHORT TITLE.

This title may be cited as the ''H–1B and L–1 Visa Reform Act of 2010''.

Subtitle A—H–1B Visa Fraud and Abuse Protections

PART I—H–1B EMPLOYER APPLICATION REQUIREMENTS

SEC. 311. MODIFICATION OF APPLICATION REQUIREMENTS.

(a) GENERAL APPLICATION REQUIREMENTS.—Subparagraph (A) of section 212(n)(1) of the Immigration and Nationality Act (8 U.S.C. 1182(n)(1)) is amended to read as follows:

''(A) The employer—

''(i) is offering and will offer to H–1B nonimmigrants, during the period of authorized employment for each H–1B nonimmigrant, wages that are determined based on the best information available at the time the application is filed and which are not less than the highest of—

''(I) the locally determined prevailing wage level for the occupational classification in the area of employment;

''(II) the median average wage for all workers in the occupational classification in the area of employment; and

''(III) the median wage for skill level 2 in the occupational classification found in the most recent Occupational Employment Statistics survey; and

''(ii) will provide working conditions for such H–1B nonimmigrant that will not adversely affect the working conditions of other workers similarly employed.''.

(b) INTERNET POSTING REQUIREMENT.—Subparagraph (C) of such section 212(n)(1) is amended—

(1) by redesignating clause (ii) as subclause (II);

(2) by striking ''(i) has provided'' and inserting the following:

''(ii)(I) has provided''; and

(3) by inserting before clause (ii), as redesignated by paragraph (2) of this subsection, the following:

''(i) has posted on the Internet website described in paragraph (3), for at least 30 calendar days, a detailed description of each position for which a nonimmigrant is sought that includes a description of—

''(I) the wages and other terms and conditions of employment;

''(II) the minimum education, training, experience, and other requirements for the position; and

''(III) the process for applying for the position; and''.

(c) WAGE DETERMINATION INFORMATION.—Subparagraph (D) of such section 212(n)(1) is amended by inserting ''the wage determination methodology used under subparagraph (A)(i),'' after ''shall contain''.

(d) APPLICATION OF REQUIREMENTS TO ALL EMPLOYERS.—

(1) NONDISPLACEMENT.—Subparagraph (E) of such section 212(n)(1) is amended—

(A) in clause (i)—

(i) by striking ''90 days'' both places it appears and inserting ''180 days''; and

(ii) by striking ''(i) In the case of an application described in clause (ii), the'' and inserting ''The''; and

(B) by striking clause (ii).

(2) RECRUITMENT.—Subparagraph (G)(i) of such section 212(n)(1) is amended by striking ''In the case of an application described in subparagraph (E)(ii), subject'' and inserting ''Subject''.

(e) REQUIREMENT FOR WAIVER.—Subparagraph (F) of such section 212(n)(1) is amended to read as follows:

''(F) The employer shall not place, outsource, lease, or otherwise contract for the services or placement of H–1B nonimmigrants with another employer unless the employer of the alien has been granted a waiver under paragraph (2)(E).''.

SEC. 312. NEW APPLICATION REQUIREMENTS.

Section 212(n)(1) of the Immigration and Nationality Act (8 U.S.C. 1182(n)(1)) is amended by inserting after clause (ii) of subparagraph (G) the following:

''(H)(i) The employer has not advertised any available position specified in the application in an advertisement that states or indicates that—

''(I) such position is only available to an individual who is or will be an H–1B nonimmigrant; or

''(II) an individual who is or will be an H–1B nonimmigrant shall receive priority or a preference in the hiring process for such position.

''(ii) The employer has not solely recruited individuals who are or who will be H–1B nonimmigrants to fill such position.

''(I) If the employer employs 50 or more employees in the United States, the sum of the number of such employees who are H–1B nonimmigrants plus the number of such employees who are nonimmigrants described in section 101(a)(15)(L) may not exceed 50 percent of the total number of employees.

''(J) If the employer, in such previous period as the Secretary shall specify, employed 1 or more H–1B nonimmigrants, the employer shall submit to the Secretary the Internal Revenue Service Form W–2 Wage and Tax Statement filed by the employer with respect to the H–1B nonimmigrants for such period.''.

SEC. 313. APPLICATION REVIEW REQUIREMENTS.

(a) TECHNICAL AMENDMENT.—Section 212(n)(1) of the Immigration and Nationality Act (8 U.S.C. 1182(n)(1)), as amended by section 102, is further amended in the undesignated paragraph at the end, by striking ''The employer'' and inserting the following:

''(K) The employer.''.

(b) APPLICATION REVIEW REQUIREMENTS.—Subparagraph (K) of such section 212(n)(1), as designated by subsection (a), is amended—

(1) by inserting ''and through the Department of Labor's website, without charge.'' after ''D.C.'';

(2) by striking ''only for completeness'' and inserting ''for completeness and clear indicators of fraud or misrepresentation of material fact,'';

(3) by striking ''or obviously inaccurate'' and inserting '', presents clear indicators of fraud or misrepresentation of material fact, or is obviously inaccurate'';

(4) by striking ''within 7 days of'' and inserting ''not later than 14 days after''; and

(5) by adding at the end the following: ''If the Secretary's review of an application identifies clear indicators of fraud or misrepresentation of material fact, the Secretary may conduct an investigation and hearing in accordance with paragraph (2).''.

PART II—INVESTIGATION AND DISPOSITION OF COMPLAINTS AGAINST H–1B EMPLOYERS

SEC. 321. GENERAL MODIFICATION OF PROCEDURES FOR INVESTIGATION AND DISPOSITION.

Subparagraph (A) of section 212(n)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(n)(2)) is amended—

(1) by striking ''(A) Subject'' and inserting ''(A)(i) Subject'';

(2) by striking ''12 months'' and inserting ''24 months'';

(3) by striking the last sentence; and

(4) by adding at the end the following:

''(ii)(I) Upon the receipt of such a complaint, the Secretary may initiate an investigation to determine if such a failure or misrepresentation has occurred.

''(II) The Secretary may conduct surveys of the degree to which employers comply with the requirements of this subsection and may conduct annual compliance audits of employers that employ H–1B nonimmigrants.

''(III) The Secretary shall—

''(aa) conduct annual compliance audits of not less than 1 percent of the employers that employ H–1B nonimmigrants during the applicable calendar year;

''(bb) conduct annual compliance audits of each employer with more than 100 employees who work in the United States if more than 15 percent of such employees are H–1B nonimmigrants; and

''(cc) make available to the public an executive summary or report describing the general findings of the audits carried out pursuant to this subclause.''.

SEC. 322. INVESTIGATION, WORKING CONDITIONS, AND PENALTIES.

Subparagraph (C) of section 212(n)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(n)(2)) is amended—

(1) in clause (i)—

(A) in the matter preceding subclause (I)—

(i) by striking ''a condition of paragraph (1)(B), (1)(E), or (1)(F)'' and inserting ''a condition under subparagraph (A), (B), (C)(i), (E), (F), (G)(i)(I), (H), (I), or (J) of paragraph (1)''; and

(ii) by striking ''(1)(C)'' and inserting ''(1)(C)(ii)''; and

(B) in subclause (I)—

(i) by striking ''$1,000'' and inserting ''$2,000''; and

(ii) by striking ''and'' at the end;

(C) in subclause (II), by striking the period at the end and inserting a semicolon and ''and'';

(D) by adding at the end the following:

''(III) an employer that violates such subparagraph (A) shall be liable to the employees harmed by such violations for lost wages and benefits.''; and

(2) in clause (ii)

(A) in subclause (I)—

(i) by striking ''may'' and inserting ''shall''; and

(ii) by striking ''$5,000'' and inserting ''$10,000''; and

(B) in subclause (II), by striking the period at the end and inserting a semicolon and ''and'';

(C) by adding at the end the following:

''(III) an employer that violates such subparagraph (A) shall be liable to the employees harmed by such violations for lost wages and benefits.''; and

(3) in clause (iii)—

(A) in the matter preceding subclause (I), by striking ''90 days'' both places it appears and inserting ''180 days'';

(B) in subclause (I)—

(i) by striking ''may'' and inserting ''shall''; and

(ii) by striking ''and'' at the end;

(C) in subclause (II), by striking the period at the end and inserting a semicolon and ''and''; and

(D) by adding at the end the following:

''(III) an employer that violates subparagraph (A) of such paragraph shall be liable to the employees harmed by such violations for lost wages and benefits.'';

(4) in clause (iv)—

(A) by inserting ''to take, fail to take, or threaten to take or fail to take, a personnel action, or'' before ''to intimidate'';

(B) by inserting ''(I)'' after ''(iv)''; and

(C) by adding at the end the following:

''(II) An employer that violates this clause shall be liable to the employees harmed by such violation for lost wages and benefits.''; and

(5) in clause (vi)—

(A) by amending subclause (I) to read as follows:

''(I) It is a violation of this clause for an employer who has filed an application under this subsection—

''(aa) to require an H–1B nonimmigrant to pay a penalty for ceasing employment with the employer prior to a date agreed to by the nonimmigrant and the employer (the Secretary shall determine whether a required payment is a penalty, and not liquidated damages, pursuant to relevant State law); and

''(bb) to fail to offer to an H–1B nonimmigrant, during the nonimmigrant's period of authorized employment, on the same basis, and in accordance with the same criteria, as the employer offers to United States workers, benefits and eligibility for benefits, including—

''(AA) the opportunity to participate in health, life, disability, and other insurance plans;

''(BB) the opportunity to participate in retirement and savings plans; and

''(CC) cash bonuses and noncash compensation, such as stock options (whether or not based on performance).''; and

(B) in subclause (III), by striking ''$1,000'' and inserting ''$2,000''.

SEC. 323. WAIVER REQUIREMENTS.

(a) IN GENERAL.—Subparagraph (E) of section 212(n)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(n)(2)) is amended to read as follows:

''(E)(i) The Secretary of Labor may waive the prohibition in paragraph (1)(F) if the Secretary determines that the employer seeking the waiver has established that—

''(I) the employer with whom the H–1B nonimmigrant would be placed has not displaced, and does not intend to displace, a United States worker employed by the employer within the period beginning 180 days before and ending 180 days after the date of the placement of the nonimmigrant with the employer;

''(II) the H–1B nonimmigrant will not be controlled and supervised principally by the employer with whom the H–1B nonimmigrant would be placed; and

''(III) the placement of the H–1B nonimmigrant is not essentially an arrangement to provide labor for hire for the employer with whom the H–1B nonimmigrant will be placed.

''(ii) The Secretary shall grant or deny a waiver under this subparagraph not later than 7 days after the Secretary receives the application for such waiver.''.

(b) REQUIREMENT FOR RULES.—

(1) RULES FOR WAIVERS.—The Secretary of Labor shall promulgate rules, after notice and a period for comment, for an employer to apply for a waiver under subparagraph (E) of section 212(n)(2) of such Act, as amended by subsection (a).

(2) REQUIREMENT FOR PUBLICATION.—The Secretary of Labor shall submit to Congress and publish in the Federal Register and other appropriate media a notice of the date that rules required by paragraph (1) are published.

SEC. 324. INITIATION OF INVESTIGATIONS.

Subparagraph (G) of section 212(n)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(n)(2)) is amended—

(1) in clause (i), by striking ''if the Secretary'' and all that follows and inserting ''with regard to the employer's compliance with the requirements of this subsection.'';

(2) in clause (ii), by striking ''and whose identity'' and all that follows through ''failure or failures.'' and inserting ''the Secretary of Labor may conduct an investigation into the employer's compliance with the requirements of this subsection.'';

(3) in clause (iii), by striking the last sentence;

(4) by striking clauses (iv) and (v);

(5) by redesignating clauses (vi), (vii), and (viii) as clauses (iv), (v), and (vi), respectively;

(6) in clause (iv), as so redesignated, by striking ''meet a condition described in clause (ii), unless the Secretary of Labor receives the information not later than 12 months'' and inserting ''comply with the requirements under this subsection, unless the Secretary of Labor receives the information not later than 24 months'';

(7) by amending clause (v), as so redesignated, to read as follows:

''(v) The Secretary of Labor shall provide notice to an employer of the intent to conduct an investigation. The notice shall be provided in such a manner, and shall contain sufficient detail, to permit the employer to respond to the allegations before an investigation is commenced. The Secretary is not required to comply with this clause if the Secretary determines that such compliance would interfere with an effort by the Secretary to investigate or secure compliance by the employer with the requirements of this subsection. A determination by the Secretary under this clause shall not be subject to judicial review.'';

(8) in clause (vi), as so redesignated, by striking ''An investigation'' and all that follows through ''the determination.'' and inserting ''If the Secretary of Labor, after an investigation under clause (i) or (ii), determines that a reasonable basis exists to make a finding that the employer has failed to comply with the requirements under this subsection, the Secretary shall provide interested parties with notice of such determination and an opportunity for a hearing in accordance with section 556 of title 5, United States Code, not later than 120 days after the date of such determination.''; and

(9) by adding at the end the following:

''(vii) If the Secretary of Labor, after a hearing, finds a reasonable basis to believe that the employer has violated the requirements under this subsection, the Secretary shall impose a penalty under subparagraph (C).''.

SEC. 325. INFORMATION SHARING.

Subparagraph (H) of section 212(n)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(n)(2)) is amended to read as follows:

''(H) The Director of United States Citizenship and Immigration Services shall provide the Secretary of Labor with any information contained in the materials submitted by employers of H–1B nonimmigrants as part of the adjudication process that indicates that the employer is not complying with visa program requirements for H–1B nonimmigrants. The Secretary may initiate and conduct an investigation and hearing under this paragraph after receiving information of noncompliance under this subparagraph.''.

SEC. 326. CONFORMING AMENDMENT.

Subparagraph (F) of section 212(n)(2) of the Immigration and Nationality Act (8 U.S.C. 1182) is amended by striking ''The preceding sentence shall apply to an employer regardless of whether or not the employer is an H–1B-dependent employer.''.

PART III—OTHER PROTECTIONS

SEC. 331. POSTING AVAILABLE POSITIONS THROUGH THE DEPARTMENT OF LABOR.

(a) DEPARTMENT OF LABOR WEBSITE.—Paragraph (3) of section 212(n) of the Immigration and Nationality Act (8 U.S.C. 1182(n)) is amended to read as follows:

''(3)(A) Not later than 90 days after the date of the enactment of the H–1B and L–1 Visa Reform Act of 2010, the Secretary of Labor shall establish a searchable Internet website for posting positions as required by paragraph (1)(C). Such website shall be available to the public without charge.

''(B) The Secretary may work with private companies or nonprofit organizations to develop and operate the Internet website described in subparagraph (A).

''(C) The Secretary may promulgate rules, after notice and a period for comment, to carry out the requirements of this paragraph.''.

(b) REQUIREMENT FOR PUBLICATION.—The Secretary of Labor shall submit to Congress and publish in the Federal Register and other appropriate media a notice of the date that the Internet website required by paragraph (3) of section 212(n) of such Act, as amended by subsection (a), will be operational.

(c) APPLICATION.—The amendments made by subsection (a) shall apply to an application filed on or after the date that is 30 days after the date described in subsection (b).

SEC. 332. H–1B GOVERNMENT AUTHORITY AND REQUIREMENTS.

(a) IMMIGRATION DOCUMENTS.—Section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) is amended by adding at the end the following:

''(l) EMPLOYER TO PROVIDE IMMIGRATION PAPERWORK EXCHANGED WITH FEDERAL AGENCIES.—Not later than 21 business days after receiving a written request from a former, current, or future employee or beneficiary, an employer shall provide such employee or beneficiary with the original (or a certified copy of the original) of all petitions, notices, and other written communication exchanged between the employer and the Department of Labor, the Department of Homeland Security, or any other Federal agency or department that is related to an immigrant or nonimmigrant petition filed by the employer for such employee or beneficiary.''.

(b) REPORT ON JOB CLASSIFICATION AND WAGE DETERMINATIONS.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall prepare a report analyzing the accuracy and effectiveness of the Secretary of Labor's current job classification and wage determination system. The report shall—

(1) specifically address whether the systems in place accurately reflect the complexity of current job types as well as geographic wage differences; and

(2) make recommendations concerning necessary updates and modifications.

SEC. 333. REQUIREMENTS FOR INFORMATION FOR H–1B AND L–1 NONIMMIGRANTS.

Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended by adding at the end the following:

''(s) REQUIREMENTS FOR INFORMATION FOR H–1B AND L–1 NONIMMIGRANTS.—

''(1) IN GENERAL.—Upon issuing a visa to an applicant for nonimmigrant status pursuant to subparagraph (H)(i)(b) or (L) of section 101(a)(15) who is outside the United States, the issuing office shall provide the applicant with—

''(A) a brochure outlining the obligations of the applicant's employer and the rights of the applicant with regard to employment under Federal law, including labor and wage protections;

''(B) the contact information for appropriate Federal agencies or departments that offer additional information or assistance in clarifying such obligations and rights; and

''(C) a copy of the application submitted for the nonimmigrant under section 212(n) or the petition submitted for the nonimmigrant under subsection (c)(2)(A), as appropriate.

''(2) Upon the issuance of a visa to an applicant referred to in paragraph (1) who is inside the United States, the issuing officer of the Department of Homeland Security shall provide the applicant with the material described in clauses (i), (ii), and (iii) of subparagraph (A).''.

SEC. 334. ADDITIONAL DEPARTMENT OF LABOR EMPLOYEES.

(a) IN GENERAL.—The Secretary of Labor is authorized to hire 200 additional employees to administer, oversee, investigate, and enforce programs involving nonimmigrant employees described in section 101(a)(15)(H)(i)(B).

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 335. TECHNICAL CORRECTION.

Section 212 of the Immigration and Nationality Act is amended by redesignating the second subsection (t), as added by section 1(b)(2)(B) of the Act entitled ''An Act to amend and extend the Irish Peace Process Cultural and Training Program Act of 1998'' (Public Law 108–449 (118 Stat. 3470)), as subsection (u).

SEC. 336. APPLICATION.

Except as specifically otherwise provided, the amendments made by this title shall apply to applications filed on or after the date of the enactment of this Act.

Subtitle B—L–1 Visa Fraud and Abuse Protections

SEC. 341. PROHIBITION ON OUTPLACEMENT OF L–1 NONIMMIGRANTS.

(a) IN GENERAL.—Subparagraph (F) of section 214(c)(2) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(2)) is amended to read as follows:

''(F)(i) Unless an employer receives a waiver under clause (ii), an employer may not employ an alien, for a cumulative period of more than 1 year, who—

''(I) will serve in a capacity involving specialized knowledge with respect to an employer for purposes of section 101(a)(15)(L); and

''(II) will be stationed primarily at the worksite of an employer other than the petitioning employer or its affiliate, subsidiary, or parent, including pursuant to an outsourcing, leasing, or other contracting agreement.''

''(ii) The Secretary of Homeland Security may grant a waiver of the requirements of clause (i) for an employer if the Secretary determines that the employer has established that—

''(I) the employer with whom the alien referred to in clause (i) would be placed has not displaced and does not intend to displace a United States worker employed by the employer within the period beginning 180 days after the date of the placement of such alien with the employer;

''(II) such alien will not be controlled and supervised principally by the employer with whom the nonimmigrant would be placed; and

''(III) the placement of the nonimmigrant is not essentially an arrangement to provide labor for hire for an unaffiliated employer with whom the nonimmigrant will be placed, rather than a placement in connection with the provision or a product or service for which specialized knowledge specific to the petitioning employer is necessary.

''(iii) The Secretary shall grant or deny a waiver under clause (ii) not later than 7 days after the date that the Secretary receives the application for the waiver.''.

(b) REGULATIONS.—The Secretary of Homeland Security shall promulgate rules, after notice and a period for comment, for an employer to apply for a waiver under subparagraph (F)(ii) of section 214(c)(2), as added by subsection (a).

SEC. 342. L–1 EMPLOYER PETITION REQUIREMENTS FOR EMPLOYMENT AT NEW OFFICES.

Section 214(c)(2) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(2)) is amended by adding at the end the following:

''(G)(i) If the beneficiary of a petition under this paragraph is coming to the United States to open, or be employed in, a new office, the petition may be approved for up to 12 months only if—

''(I) the alien has not been the beneficiary of 2 or more petitions under this subparagraph during the immediately preceding 2 years; and

''(II) the employer operating the new office has—

''(aa) an adequate business plan;

''(bb) sufficient physical premises to carry out the proposed business activities; and

''(cc) the financial ability to commence doing business immediately upon the approval of the petition.

''(ii) An extension of the approval period under clause (i) may not be granted until the importing employer submits an application to the Secretary of Homeland Security that contains—

''(I) evidence that the importing employer meets the requirements of this subsection;

''(II) evidence that the beneficiary of the petition is eligible for nonimmigrant status under section 101(a)(15)(L);

''(III) a statement summarizing the original petition;

''(IV) evidence that the importing employer has fully complied with the business plan submitted under clause (i)(I);

''(V) evidence of the truthfulness of any representations made in connection with the filing of the original petition;

''(VI) evidence that the importing employer, for the entire period beginning on the date on which the petition was approved under clause (i), has been doing business at the new office through regular, systematic, and continuous provision of goods and services;

''(VII) a statement of the duties the beneficiary has performed at the new office during the approval period under clause (i) and the duties the beneficiary will perform at the new office during the extension period granted under this clause;

''(VIII) a statement describing the staffing at the new office, including the number of employees and the types of positions held by such employees;

''(IX) evidence of wages paid to employees;

''(X) evidence of the financial status of the new office; and

''(XI) any other evidence or data prescribed by the Secretary.

''(iii) A new office employing the beneficiary of an L–1 petition approved under this paragraph shall do business only through regular, systematic, and continuous provision of goods and services for the entire period for which the petition is sought.

''(iv) Notwithstanding clause (ii), and subject to the maximum period of authorized

admission set forth in subparagraph (D), the Secretary of Homeland Security, in the Secretary's discretion, may approve a subsequently filed petition on behalf of the beneficiary to continue employment at the office described in this subparagraph for a period beyond the initially granted 12-month period if the importing employer has been doing business at the new office through regular, systematic, and continuous provision of goods and services for the 6 months immediately preceding the date of extension petition filing and demonstrates that the failure to satisfy any of the requirements described in those subclauses was directly caused by extraordinary circumstances, as determined by the Secretary in the Secretary's discretion.''.

SEC. 343. COOPERATION WITH SECRETARY OF STATE.

Section 214(c)(2) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(2)), as amended by section 342, is further amended by adding at the end the following:

''(H) For purposes of approving petitions under this paragraph, the Secretary of Homeland Security shall work cooperatively with the Secretary of State to verify the existence or continued existence of a company or office in the United States or in a foreign country.''.

SEC. 344. INVESTIGATION AND DISPOSITION OF COMPLAINTS AGAINST L–1 EMPLOYERS.

Section 214(c)(2) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(2)), as amended by sections 342 and 343, is further amended by adding at the end the following:

''(I)(i) The Secretary of Homeland Security may initiate an investigation of any employer that employs nonimmigrants described in section 101(a)(15)(L) with regard to the employer's compliance with the requirements of this subsection.

''(ii) If the Secretary receives specific credible information from a source who is likely to have knowledge of an employer's practices, employment conditions, or compliance with the requirements under this subsection, the Secretary may conduct an investigation into the employer's compliance with the requirements of this subsection. The Secretary may withhold the identity of the source from the employer, and the source's identity shall not be subject to disclosure under section 552 of title 5, United States Code.

''(iii) The Secretary shall establish a procedure for any person desiring to provide to the Secretary information described in clause (ii) that may be used, in whole or in part, as the basis for the commencement of an investigation described in such clause, to provide the information in writing on a form developed and provided by the Secretary and completed by or on behalf of the person.

''(iv) No investigation described in clause (ii) (or hearing described in clause (vi) based on such investigation) may be conducted with respect to information about a failure to comply with the requirements under this subsection, unless the Secretary receives the information not later than 24 months after the date of the alleged failure.

''(v) Before commencing an investigation of an employer under clause (i) or (ii), the Secretary shall provide notice to the employer of the intent to conduct such investigation. The notice shall be provided in such a manner, and shall contain sufficient detail, to permit the employer to respond to the allegations before an investigation is commenced. The Secretary is not required to comply with this clause if the Secretary determines that to do so would interfere with an effort by the Secretary to investigate or secure compliance by the employer with the requirements of this subsection. There shall be no judicial review of a determination by the Secretary under this clause.

''(vi) If the Secretary, after an investigation under clause (i) or (ii), determines that a reasonable basis exists to make a finding that the employer has failed to comply with the requirements under this subsection, the Secretary shall provide the interested parties with notice of such determination and an opportunity for a hearing in accordance with section 556 of title 5, United States Code, not later than 120 days after the date of such determination. If such a hearing is requested, the Secretary shall make a finding concerning the matter by not later than 120 days after the date of the hearing.

''(vii) If the Secretary, after a hearing, finds a reasonable basis to believe that the employer has violated the requirements under this subsection, the Secretary shall impose a penalty under subparagraph (L).

''(viii)(I) The Secretary may conduct surveys of the degree to which employers comply with the requirements under this section.

''(II) The Secretary shall—

''(aa) conduct annual compliance audits of not less than 1 percent of the employers that employ nonimmigrants described in section 101(a)(15)(L) during the applicable fiscal year;

''(bb) conduct annual compliance audits of each employer with more than 100 employees who work in the United States if more than 15 percent of such employees are nonimmigrants described in 101(a)(15)(L); and

''(cc) make available to the public an executive summary or report describing the general findings of the audits carried out pursuant to this subclause.''.

SEC. 345. WAGE RATE AND WORKING CONDITIONS FOR L–1 NONIMMIGRANT.

(a) IN GENERAL.—Section 214(c)(2) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(2)), as amended by section 342, 343, and 344, is further amended by adding at the end the following:

''(J)(i) An employer that employs a nonimmigrant described in section 101(a)(15)(L) for a cumulative period of time in excess of 1 year shall—

''(I) offer such nonimmigrant, during the period of authorized employment, wages, based on the best information available at the time the application is filed, which are not less than the highest of—

''(aa) the locally determined prevailing wage level for the occupational classification in the area of employment;

''(bb) the median average wage for all workers in the occupational classification in the area of employment; and

''(cc) the median wage for skill level 2 in the occupational classification found in the most recent Occupational Employment Statistics survey; and

''(II) provide working conditions for such nonimmigrant that will not adversely affect the working conditions of workers similarly employed.

''(ii) If an employer, in such previous period specified by the Secretary of Homeland Security, employed 1 or more such nonimmigrants, the employer shall provide to the Secretary of Homeland Security the Internal Revenue Service Form W–2 Wage and Tax Statement filed by the employer with respect to such nonimmigrants for such period.

''(iii) It is a failure to meet a condition under this subparagraph for an employer who has filed a petition to import 1 or more aliens as nonimmigrants described in section 101(a)(15)(L)—

''(I) to require such a nonimmigrant to pay a penalty for ceasing employment with the employer before a date mutually agreed to by the nonimmigrant and the employer; or

''(II) to fail to offer to such a nonimmigrant, during the nonimmigrant's period of authorized employment, on the same basis, and in accordance with the same criteria, as the employer offers to United States workers, benefits and eligibility for benefits, including—

''(aa) the opportunity to participate in health, life, disability, and other insurance plans;

''(bb) the opportunity to participate in retirement and savings plans; and

''(cc) cash bonuses and noncash compensation, such as stock options (whether or not based on performance).

''(iv) The Secretary of Homeland Security shall determine whether a required payment under clause (iii)(I) is a penalty (and not liquidated damages) pursuant to relevant State law.''.

(b) REGULATIONS.—The Secretary of Homeland Security shall promulgate rules, after notice and a period of comment, to implement the requirements of subparagraph (J) of section 214(c)(2) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(2)), as added by subsection (a). In promulgating these rules, the Secretary shall take into consideration any special circumstances relating to intracompany transfers.

SEC. 346. PENALTIES.

Section 214(c)(2) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(2)), as amended by sections 202, 203, 204, and 205, is further amended by adding at the end the following:

''(K)(i) If the Secretary of Homeland Security finds, after notice and an opportunity for a hearing, a failure by an employer to meet a condition under subparagraph (F), (G), (J), or (L) or a misrepresentation of material fact in a petition to employ 1 or more aliens as nonimmigrants described in section 101(a)(15)(L)—

''(I) the Secretary shall impose such administrative remedies (including civil monetary penalties in an amount not to exceed $2,000 per violation) as the Secretary determines to be appropriate;

''(II) the Secretary may not, during a period of at least 1 year, approve a petition for that employer to employ 1 or more aliens as such nonimmigrants; and

''(III) in the case of a violation of subparagraph (J) or (L), the employer shall be liable to the employees harmed by such violation for lost wages and benefits.

''(ii) If the Secretary finds, after notice and an opportunity for a hearing, a willful failure by an employer to meet a condition under subparagraph (F), (G), (J). or (L) or a willful misrepresentation of material fact in a petition to employ 1 or more aliens as nonimmigrants described in section 101(a)(15)(L)—

''(I) the Secretary shall impose such administrative remedies (including civil monetary penalties in an amount not to exceed $10,000 per violation) as the Secretary determines to be appropriate;

''(II) the Secretary may not, during a period of at least 2 years, approve a petition filed for that employer to employ 1 or more aliens as such nonimmigrants; and

''(III) in the case of a violation of subparagraph (J) or (L), the employer shall be liable to the employees harmed by such violation for lost wages and benefits.''.

SEC. 347. PROHIBITION ON RETALIATION AGAINST L–1 NONIMMIGRANTS.

Section 214(c)(2) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(2)), as amended by section 342, 343, 344, 345, and 346, is further amended by adding at the end the following:

''(L)(i) It is a violation of this subparagraph for an employer who has filed a petition to import 1 or more aliens as nonimmigrants described in section 101(a)(15)(L)

to take, fail to take, or threaten to take or fail to take, a personnel action, or to intimidate, threaten, restrain, coerce, blacklist, discharge, or discriminate in any other manner against an employee because the employee—

''(I) has disclosed information that the employee reasonably believes evidences a violation of this subsection, or any rule or regulation pertaining to this subsection; or

''(II) cooperates or seeks to cooperate with the requirements of this subsection, or any rule or regulation pertaining to this subsection.

''(ii) In this subparagraph, the term 'employee' includes—

''(I) a current employee;

''(II) a former employee; and

''(III) an applicant for employment.''.

SEC. 348. REPORTS ON L–1 NONIMMIGRANTS.

Section 214(c)(8) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(8)) is amended by inserting ''(L),'' after ''(H),''.

SEC. 349. TECHNICAL AMENDMENTS.

Section 214(c)(2) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(2)) is amended by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security''.

SEC. 350. APPLICATION.

The amendments made by sections 341 through 347 shall apply to applications filed on or after the date of the enactment of this Act.

SEC. 351. REPORT ON L–1 BLANKET PETITION PROCESS.

(a) REQUIREMENT FOR REPORT.—Not later than 6 months after the date of the enactment of this Act, the Inspector General of the Department of Homeland Security shall submit to the appropriate committees of Congress a report regarding the use of blanket petitions under section 214(c)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(2)(A)). Such report shall assess the efficiency and reliability of the process for reviewing such blanket petitions, including whether the process includes adequate safeguards against fraud and abuse.

(b) APPROPRIATE COMMITTEES OF CONGRESS.—In this section the term ''appropriate committees of Congress'' means—

(1) the Committee on Homeland Security and Governmental Affairs of the Senate;

(2) the Committee on the Judiciary of the Senate;

(3) the Committee on Homeland Security of the House of Representatives; and

(4) the Committee on the Judiciary of the House of Representatives.

SA 4660. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 3816, to amend the Internal Revenue Code of 1986 to create American jobs and to prevent the offshoring of such jobs overseas; which was ordered to lie on the table; as follows:

At the end of title I, add the following:

SEC. 102. CERTIFICATION REQUIREMENT.

(a) IN GENERAL.—The Secretary of Homeland Security may not approve a petition by an employer for any visa authorizing employment in the United States unless the employer has provided written certification, under penalty of perjury, to the Secretary of Labor that—

(1) the employer has not provided a notice of a mass layoff pursuant to the Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101 et seq.) during the 12-month period immediately preceding the date on which the alien is scheduled to be hired; and

(2) the employer does not intend to provide a notice of a mass layoff pursuant to such Act.

(b) EFFECT OF MASS LAYOFF.—If an employer provides a notice of a mass layoff pursuant to the Worker Adjustment and Retraining Notification Act after the approval of a visa described in subsection (a), any visas approved during the most recent 12-month period for such employer shall expire on the date that is 60 days after the date on which such notice is provided. The expiration of a visa under this subsection shall not be subject to judicial review.

(c) NOTICE REQUIREMENT.—Upon receiving notification of a mass layoff from an employer, the Secretary of Homeland Security shall inform each employee whose visa is scheduled to expire under subsection (b)—

(1) the date on which such individual will no longer be authorized to work in the United States; and

(2) the date on which such individual will be required to leave the United States unless the individual is otherwise authorized to remain in the United States.

(d) EXEMPTION.—An employer shall be exempt from the requirements under this section if the employer provides written certification, under penalty of perjury, to the Secretary of Labor that the total number of the employer's workers who are United States citizens and are working in the United States have not been, and will not be, reduced as a result of a mass layoff described in subsection (b).

(e) RULEMAKING.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security and the Secretary of Labor shall promulgate regulations to carry out this section, including a requirement that employers provide notice to the Secretary of Homeland Security of a mass layoff (as defined in section 2 of the Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101)).

SA 4661. Mr. DURBIN (for Mr. LIEBERMAN) proposed an amendment to the bill H.R. 553, to require the Secretary of Homeland Security to develop a strategy to prevent the over-classification of homeland security and other information and to promote the sharing of unclassified homeland security and other information, and for other purposes; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Reducing Over-Classification Act''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The National Commission on Terrorist Attacks Upon the United States (commonly known as the ''9/11 Commission'') concluded that security requirements nurture over-classification and excessive compartmentation of information among agencies.

(2) The 9/11 Commission and others have observed that the over-classification of information interferes with accurate, actionable, and timely information sharing, increases the cost of information security, and needlessly limits stakeholder and public access to information.

(3) Over-classification of information causes considerable confusion regarding what information may be shared with whom, and negatively affects the dissemination of information within the Federal Government and with State, local, and tribal entities, and with the private sector.

(4) Over-classification of information is antithetical to the creation and operation of the information sharing environment established under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485).

(5) Federal departments or agencies authorized to make original classification decisions or that perform derivative classification of information are responsible for developing, implementing, and administering policies, procedures, and programs that promote compliance with applicable laws, executive orders, and other authorities pertaining to the proper use of classification markings and the policies of the National Archives and Records Administration.

SEC. 3. DEFINITIONS.

In this Act:

(1) DERIVATIVE CLASSIFICATION AND ORIGINAL CLASSIFICATION.—The terms ''derivative classification'' and ''original classification'' have the meanings given those terms in Executive Order No. 13526.

(2) EXECUTIVE AGENCY.—The term ''Executive agency'' has the meaning given that term in section 105 of title 5, United States Code.

(3) EXECUTIVE ORDER NO. 13526.—The term ''Executive Order No. 13526'' means Executive Order No. 13526 (75 Fed. Reg. 707; relating to classified national security information) or any subsequent corresponding executive order.

SEC. 4. CLASSIFIED INFORMATION ADVISORY OFFICER.

(a) IN GENERAL.—Subtitle A of title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.) is amended by adding at the end the following:

''SEC. 210F. CLASSIFIED INFORMATION ADVISORY OFFICER.

''(a) REQUIREMENT TO ESTABLISH.—The Secretary shall identify and designate within the Department a Classified Information Advisory Officer, as described in this section.

''(b) RESPONSIBILITIES.—The responsibilities of the Classified Information Advisory Officer shall be as follows:

''(1) To develop and disseminate educational materials and to develop and administer training programs to assist State, local, and tribal governments (including State, local, and tribal law enforcement agencies) and private sector entities—

''(A) in developing plans and policies to respond to requests related to classified information without communicating such information to individuals who lack appropriate security clearances;

''(B) regarding the appropriate procedures for challenging classification designations of information received by personnel of such entities; and

''(C) on the means by which such personnel may apply for security clearances.

''(2) To inform the Under Secretary for Intelligence and Analysis on policies and procedures that could facilitate the sharing of classified information with such personnel, as appropriate.

''(c) INITIAL DESIGNATION.—Not later than 90 days after the date of the enactment of the Reducing Over-Classification Act, the Secretary shall—

''(1) designate the initial Classified Information Advisory Officer; and

''(2) submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a written notification of the designation.''.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after the item relating to section 210E the following:

''Sec. 210F. Classified Information Advisory Officer.''.

SEC. 5. INTELLIGENCE INFORMATION SHARING.

(a) DEVELOPMENT OF GUIDANCE FOR INTELLIGENCE PRODUCTS.—Paragraph (1) of section

102A(g) of the National Security Act of 1947 (50 U.S.C. 403–1(g)) is amended—

(1) in subparagraph (E), by striking ''and'' at the end;

(2) in subparagraph (F), by striking the period at the end and inserting a semicolon and ''and''; and

(3) by adding at the end the following:

''(G) in accordance with Executive Order No. 13526 (75 Fed. Reg. 707; relating to classified national security information) (or any subsequent corresponding executive order), and part 2001 of title 32, Code of Federal Regulations (or any subsequent corresponding regulation), establish—

''(i) guidance to standardize, in appropriate cases, the formats for classified and unclassified intelligence products created by elements of the intelligence community for purposes of promoting the sharing of intelligence products; and

''(ii) policies and procedures requiring the increased use, in appropriate cases, and including portion markings, of the classification of portions of information within one intelligence product.''.

(b) CREATION OF UNCLASSIFIED INTELLIGENCE PRODUCTS AS APPROPRIATE FOR STATE, LOCAL, TRIBAL, AND PRIVATE SECTOR STAKEHOLDERS.—

(1) RESPONSIBILITIES OF SECRETARY RELATING TO INTELLIGENCE AND ANALYSIS AND INFRASTRUCTURE PROTECTION.—Paragraph (3) of section 201(d) of the Homeland Security Act of 2002 (6 U.S.C. 121(d)) is amended to read as follows:

''(3) To integrate relevant information, analysis, and vulnerability assessments (regardless of whether such information, analysis or assessments are provided by or produced by the Department) in order to—

''(A) identify priorities for protective and support measures regarding terrorist and other threats to homeland security by the Department, other agencies of the Federal Government, State, and local government agencies and authorities, the private sector, and other entities; and

''(B) prepare finished intelligence and information products in both classified and unclassified formats, as appropriate, whenever reasonably expected to be of benefit to a State, local, or tribal government (including a State, local, or tribal law enforcement agency) or a private sector entity.''.

(2) ITACG DETAIL.—Section 210D(d) of the Homeland Security Act of 2002 (6 U.S.C. 124k(d)) is amended—

(A) in paragraph (5)—

(i) in subparagraph (D), by striking ''and'' at the end;

(ii) by redesignating subparagraph (E) as subparagraph (F); and

(iii) by inserting after subparagraph (D) the following:

''(E) make recommendations, as appropriate, to the Secretary or the Secretary's designee, for the further dissemination of intelligence products that could likely inform or improve the security of a State, local, or tribal government, (including a State, local, or tribal law enforcement agency) or a private sector entity; and'';

(B) in paragraph (6)(C), by striking ''and'' at the end;

(C) in paragraph (7), by striking the period at the end and inserting a semicolon and ''and''; and

(D) by adding at the end the following:

''(8) compile an annual assessment of the ITACG Detail's performance, including summaries of customer feedback, in preparing, disseminating, and requesting the dissemination of intelligence products intended for State, local and tribal government (including State, local, and tribal law enforcement agencies) and private sector entities; and

''(9) provide the assessment developed pursuant to paragraph (8) to the program manager for use in the annual reports required by subsection (c)(2).''.

(c) INTERAGENCY THREAT ASSESSMENT AND COORDINATION GROUP ANNUAL REPORT MODIFICATION.—Subsection (c) of section 210D of the Homeland Security Act of 2002 (6 U.S.C. 124k) is amended—

(1) in the matter preceding paragraph (1), by striking '', in consultation with the Information Sharing Council,'';

(2) in paragraph (1), by striking ''and'' at the end;

(3) in paragraph (2), by striking the period at the end and inserting a semicolon and ''and''; and

(4) by adding at the end the following:

''(3) in each report required by paragraph (2) submitted after the date of the enactment of the Reducing Over-Classification Act, include an assessment of whether the detailees under subsection (d)(5) have appropriate access to all relevant information, as required by subsection (g)(2)(C).''.

SEC. 6. PROMOTION OF ACCURATE CLASSIFICATION OF INFORMATION.

(a) INCENTIVES FOR ACCURATE CLASSIFICATIONS.—In making cash awards under chapter 45 of title 5, United States Code, the President or the head of an Executive agency with an officer or employee who is authorized to make original classification decisions or derivative classification decisions may consider such officer's or employee's consistent and proper classification of information.

(b) INSPECTOR GENERAL EVALUATIONS.—

(1) REQUIREMENT FOR EVALUATIONS.—Not later than September 30, 2016, the inspector general of each department or agency of the United States with an officer or employee who is authorized to make original classifications, in consultation with the Information Security Oversight Office, shall carry out no less than two evaluations of that department or agency or a component of the department or agency—

(A) to assess whether applicable classification policies, procedures, rules, and regulations have been adopted, followed, and effectively administered within such department, agency, or component; and

(B) to identify policies, procedures, rules, regulations, or management practices that may be contributing to persistent misclassification of material within such department, agency or component.

(2) DEADLINES FOR EVALUATIONS.—

(A) INITIAL EVALUATIONS.—Each first evaluation required by paragraph (1) shall be completed no later than September 30, 2013.

(B) SECOND EVALUATIONS.—Each second evaluation required by paragraph (1) shall review progress made pursuant to the results of the first evaluation and shall be completed no later than September 30, 2016.

(3) REPORTS.—

(A) REQUIREMENT.—Each inspector general who is required to carry out an evaluation under paragraph (1) shall submit to the appropriate entities a report on each such evaluation.

(B) CONTENT.—Each report submitted under subparagraph (A) shall include a description of—

(i) the policies, procedures, rules, regulations, or management practices, if any, identified by the inspector general under paragraph (1)(B); and

(ii) the recommendations, if any, of the inspector general to address any such identified policies, procedures, rules, regulations, or management practices.

(C) COORDINATION.—The inspectors general who are required to carry out evaluations under paragraph (1) shall coordinate with each other and with the Information Security Oversight Office to ensure that evaluations follow a consistent methodology, as appropriate, that allows for cross-agency comparisons.

(4) APPROPRIATE ENTITIES DEFINED.—In this subsection, the term ''appropriate entities'' means—

(A) the Committee on Homeland Security and Governmental Affairs and the Select Committee on Intelligence of the Senate;

(B) the Committee on Homeland Security, the Committee on Oversight and Government Reform, and the Permanent Select Committee on Intelligence of the House of Representatives;

(C) any other committee of Congress with jurisdiction over a department or agency referred to in paragraph (1);

(D) the head of a department or agency referred to in paragraph (1); and

(E) the Director of the Information Security Oversight Office.

SEC. 7. CLASSIFICATION TRAINING PROGRAM.

(a) IN GENERAL.—The head of each Executive agency, in accordance with Executive Order 13526, shall require annual training for each employee who has original classification authority. For employees who perform derivative classification, or are responsible for analysis, dissemination, preparation, production, receipt, publication, or otherwise communication of classified information, training shall be provided at least every two years. Such training shall—

(1) educate the employee, as appropriate, regarding—

(A) the guidance established under subparagraph (G) of section 102A(g)(1) of the National Security Act of 1947 (50 U.S.C. 403–1(g)(1)), as added by section 5(a)(3), regarding the formatting of finished intelligence products;

(B) the proper use of classification markings, including portion markings that indicate the classification of portions of information; and

(C) any incentives and penalties related to the proper classification of intelligence information; and

(2) ensure such training is a prerequisite, once completed successfully, as evidenced by an appropriate certificate or other record, for—

(A) obtaining original classification authority or derivatively classifying information; and

(B) maintaining such authority.

(b) RELATIONSHIP TO OTHER PROGRAMS.—The head of each Executive agency shall ensure that the training required by subsection (a) is conducted efficiently and in conjunction with any other required security, intelligence, or other training programs to reduce the costs and administrative burdens associated with carrying out the training required by subsection (a).

SA 4662. Mr. WYDEN (for himself, Mrs. MURRAY, and Mr. MERKLEY) submitted an amendment intended to be proposed by him to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title X, add the following:

SEC. 1082. ANNUAL LEAVE FOR FAMILY OF DEPLOYED MEMBERS OF THE UNIFORMED SERVICES.

(a) IN GENERAL.—Part III of title 38, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 44—ANNUAL LEAVE FOR FAMILY OF DEPLOYED MEMBERS OF THE UNIFORMED SERVICES

"Sec.
"4401. Definitions.
"4402. Leave requirement.
"4403. Certification.
"4404. Employment and benefits protection.
"4405. Prohibited acts.
"4406. Enforcement.
"4407. Miscellaneous provisions.

"§ 4401. Definitions

"In this chapter:

"(1) The terms 'benefit', 'rights and benefits', 'employee', 'employer', and 'uniformed services' have the meaning given such terms in section 4303 of this title.

"(2) The term 'contingency operation' has the same meaning given such term in section 101(a)(13) of title 10.

"(3) The term 'eligible employee' means an individual who is—

"(A) a family member of a member of a uniformed service; and

"(B) an employee of the employer with respect to whom leave is requested under section 4402 of this title.

"(4) The term 'family member' means an individual who is, with respect to another individual, one of the following:

"(A) The spouse of the other individual.

"(B) A son or daughter of the other individual.

"(C) A parent of the other individual.

"(5) The term 'reduced leave schedule' means a leave schedule that reduces the usual number of hours per workweek, or hours per workday, of an employee.

"(6) The terms 'spouse', 'son or daughter', and 'parent' have the meaning given such terms in section 101 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611).

"§ 4402. Leave requirement

"(a) ENTITLEMENT TO LEAVE.—In any 12-month period, an eligible employee shall be entitled to two workweeks of leave for each family member of the eligible employee who, during such 12-month period—

"(1) is in the uniformed services; and

"(2)(A) receives notification of an impending call or order to active duty in support of a contingency operation; or

"(B) is deployed in connection with a contingency operation.

"(b) LEAVE TAKEN INTERMITTENTLY OR ON REDUCED LEAVE SCHEDULE.—(1) Leave under subsection (a) may be taken by an eligible employee intermittently or on a reduced leave schedule as the eligible employee considers appropriate.

"(2) The taking of leave intermittently or on a reduced leave schedule pursuant to this subsection shall not result in a reduction in the total amount of leave to which the eligible employee is entitled under subsection (a) beyond the amount of leave actually taken.

"(c) PAID LEAVE PERMITTED.—Leave granted under subsection (a) may consist of paid leave or unpaid leave as the employer of the eligible employee considers appropriate.

"(d) RELATIONSHIP TO PAID LEAVE.—(1) If an employer provides paid leave to an eligible employee for fewer than the total number of workweeks of leave that the eligible employee is entitled to under subsection (a), the additional amount of leave necessary to attain the total number of workweeks of leave required under subsection (a) may be provided without compensation.

"(2) An eligible employee may elect, and an employer may not require the eligible employee, to substitute any of the accrued paid vacation leave, personal leave, or family leave of the eligible employee for leave provided under subsection (a) for any part of the total period of such leave the eligible employee is entitled to under such subsection.

"(e) NOTICE FOR LEAVE.—In any case in which an eligible employee chooses to use leave under subsection (a), the eligible employee shall provide such notice to the employer as is reasonable and practicable.

"§ 4403. Certification

"(a) IN GENERAL.—An employer may require that a request for leave under section 4402(a) of this title be supported by a certification of entitlement to such leave.

"(b) TIMELINESS OF CERTIFICATION.—An eligible employee shall provide, in a timely manner, a copy of the certification required by subsection (a) to the employer.

"(c) SUFFICIENT CERTIFICATION.—A copy of the notification, call, or order described in section 4402(a)(2) of this title shall be considered sufficient certification of entitlement to leave for purposes of providing certification under this section. The Secretary may prescribe such additional forms and manners of certification as the Secretary considers appropriate for purposes of providing certification under this section.

"§ 4404. Employment and benefits protection

"(a) IN GENERAL.—An eligible employee who takes leave under section 4402 of this title for the intended purpose of the leave shall be entitled, on return from such leave—

"(1) to be restored by the employer to the position of employment held by the eligible employee when the leave commenced; or

"(2) to be restored to an equivalent position with equivalent rights and benefits of employment.

"(b) LOSS OF BENEFITS.—The taking of leave under section 4402 of this title shall not result in the loss of any employment benefit accrued prior to the date on which the leave commenced.

"(c) LIMITATIONS.—Nothing in this section shall be construed to entitle any restored employee to—

"(1) the accrual of any seniority or employment benefits during any period of leave; or

"(2) any right, benefit, or position of employment other than any right, benefit, or position to which the employee would have been entitled had the employee not taken the leave.

"§ 4405. Prohibited acts

"(a) EXERCISE OF RIGHTS.—It shall be unlawful for any employer to interfere with, restrain, or deny the exercise of or the attempt to exercise, any right provided under this chapter.

"(b) DISCRIMINATION.—It shall be unlawful for any employer to discharge or in any other manner discriminate against any individual for opposing any practice made unlawful by this chapter.

"§ 4406. Enforcement

"The provisions of subchapter III of chapter 43 of this title shall apply with respect to the provisions of this chapter as if such provisions were incorporated into and made part of this chapter.

"§ 4407. Miscellaneous provisions

"The provisions of subchapter IV of chapter 43 of this title shall apply with respect to the provisions of this chapter as if such provisions were incorporated into and made part of this chapter.".

(b) CLERICAL AMENDMENTS.—The table of chapters at the beginning of title 38, United States Code, and at the beginning of part III of such title, are each amended by inserting after the item relating to chapter 43 the following new item:

"44. Annual Leave for Family of Deployed Members of the Uniformed Services ..... 4401.".

SA 4663. Mr. CASEY (for Mr. AKAKA (for himself and Mr. VOINOVICH)) proposed an amendment to the bill H.R. 946, to enhance citizen access to Government information and services by establishing that Government documents issued to the public must be written clearly, and for other purposes; as follows:

On page 2, line 9, strike "relevant to" and insert "necessary for".

On page 2, strike lines 21 through 25 and insert the following:

(3) PLAIN WRITING.—The term "plain writing" means writing that is clear, concise, well-organized, and follows other best practices appropriate to the subject or field and intended audience.

On page 3, line 18, insert "as required under paragraph (2)" after "website".

SA 4664. Mr. CASEY (for Mr. LIEBERMAN) proposed an amendment to the bill S. 1510, to transfer statutory entitlements to pay and hours of work authorized by laws codified in the District of Columbia Official Code for current members of the United States Secret Service Uniformed Division from such laws to the United States Code, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; PURPOSE.

(a) SHORT TITLE.—This Act may be cited as the "United States Secret Service Uniformed Division Modernization Act of 2010".

(b) PURPOSE.—The purpose of this Act is to transfer statutory entitlements to pay and hours of work authorized by laws codified in the District of Columbia Official Code for current members of the United States Secret Service Uniformed Division from such laws to the United States Code.

SEC. 2. HUMAN RESOURCES FOR UNITED STATES SECRET SERVICE UNIFORMED DIVISION.

(a) PAY FOR MEMBERS OF THE UNITED STATES SECRET SERVICE UNIFORMED DIVISION.—Subpart I of part III of title 5, United States Code, is amended by adding at the end the following:

"CHAPTER 102—UNITED STATES SECRET SERVICE UNIFORMED DIVISION PERSONNEL

"Sec.
"10201. Definitions.
"10202. Authorities.
"10203. Basic pay.
"10204. Rate of pay for original appointments.
"10205. Service step adjustments.
"10206. Technician positions.
"10207. Promotions.
"10208. Demotions.
"10209. Clothing allowances.
"10210. Reporting requirement.

"§ 10201. Definitions

"In this chapter—

"(1) the term 'member' means an employee of the United States Secret Service Uniformed Division having the authorities described under section 3056A(b) of title 18;

"(2) the term 'Secretary' means the Secretary of the Department of Homeland Security; and

"(3) the term 'United States Secret Service Uniformed Division' has the meaning given that term under section 3056A of title 18.

"§ 10202. Authorities

''(a) IN GENERAL.—The Secretary is authorized to—

''(1) fix and adjust rates of basic pay for members of the United States Secret Service Uniformed Division, subject to the requirements of this chapter;

''(2) determine what constitutes an acceptable level of competence for the purposes of section 10205;

''(3) establish and determine the positions at the Officer and Sergeant ranks to be included as technician positions; and

''(4) determine the rate of basic pay of a member who is changed or demoted to a lower rank, in accordance with section 10208.

''(b) DELEGATION OF AUTHORITY.—The Secretary is authorized to delegate to the designated agent or agents of the Secretary, any power or function vested in the Secretary under in this chapter.

''(c) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary to administer this chapter.

"§ 10203. Basic pay

''(a) IN GENERAL.—The annual rates of basic pay of members of the United States Secret Service Uniformed Division shall be fixed in accordance with the following schedule of rates, except that the payable annual rate of basic pay for positions at the Lieutenant, Captain, and Inspector ranks is limited to 95 percent of the rate of pay for level V of the Executive Schedule under subchapter II of chapter 53.

''Rank	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10	Step 11	Step 12	Step 13
Officer	$44,000	$46,640	$49,280	$51,920	$54,560	$57,200	$59,840	$62,480	$65,120	$67,760	$70,400	$73,040	$75,680
Sergeant	.....	.....	.....	59,708	62,744	65,780	68,816	71,852	74,888	77,924	80,960	83,996	87,032
Lieutenant	.....	.....	.....	.....	69,018	72,358	75,698	79,038	82,378	85,718	89,058	92,398	95,738
Captain	.....	.....	.....	.....	.....	79,594	83,268	86,942	90,616	94,290	97,964	101,638	105,312
Inspector	.....	.....	.....	.....	.....	91,533	95,758	99,983	104,208	108,433	112,658	116,883	121,108
Deputy Chief	The rate of basic pay for Deputy Chief positions will be equal to 95 percent of the rate of pay for level V of the Executive Schedule.												
Assistant Chief	The rate of basic pay the Assistant Chief position will be equal to 95 percent of the rate of pay for level V of the Executive Schedule.												
Chief	The rate of basic pay the Chief position will be equal to the rate of pay for level V of the Executive Schedule.												

''(b) SCHEDULE ADJUSTMENT.—

''(1)(A) Effective at the beginning of the first pay period commencing on or after the first day of the month in which an adjustment in the rates of basic pay under the General Schedule takes effect under section 5303 or other authority, the schedule of annual rates of basic pay of members (except the Deputy Chiefs, Assistant Chief and Chief) shall be adjusted by the Secretary by a percentage amount corresponding to the percentage adjustment made in the rates of pay under the General Schedule.

''(B) The Secretary may establish a methodology of schedule adjustment that—

''(i) results in uniform fixed-dollar step increments within any given rank; and

''(ii) preserves the established percentage differences among rates of different ranks at the same step position.

''(2) Notwithstanding paragraph (1), the payable annual rate of basic pay for positions at the Lieutenant, Captain, and Inspector ranks after adjustment under paragraph (1) may not exceed 95 percent of the rate of pay for level V of the Executive Schedule under subchapter II of chapter 53.

''(3) Locality-based comparability payments authorized under section 5304 shall be applicable to the basic pay for all ranks under this section, except locality-based comparability payments may not be paid at a rate which, when added to the rate of basic pay otherwise payable to the member, would cause the total to exceed the rate of basic pay payable for level IV of the Executive Schedule.

"§ 10204. Rate of pay for original appointments

''(a) IN GENERAL.—Except as provided in subsection (b), all original appointments shall be made at the minimum rate of basic pay for the Officer rank set forth in the schedule in section 10203.

''(b) EXCEPTION FOR SUPERIOR QUALIFICATIONS OR SPECIAL NEED.—The Director of the United States Secret Service or the designee of the Director may appoint an individual at a rate above the minimum rate of basic pay for the Officer rank based on the individual's superior qualifications or a special need of the Government for the individual's services.

"§ 10205. Service step adjustments

''(a) DEFINITION.—In this section, the term 'calendar week of active service' includes all periods of leave with pay or other paid time off, and periods of non-pay status which do not cumulatively equal one 40-hour workweek.

''(b) ADJUSTMENTS.—Each member whose current performance is at an acceptable level of competence shall have a service step adjustment as follows:

''(1) Each member in service step 1, 2, or 3 shall be advanced successively to the next higher service step at the beginning of the first pay period immediately following the completion of 52 calendar weeks of active service in the member's service step.

''(2) Each member in service step 4, 5, 6, 7, 8, 9, 10, or 11 shall be advanced successively to the next higher service step at the beginning of the first pay period immediately following the completion of 104 calendar weeks of active service in the member's service step.

''(3) Each member in service step 12 shall be advanced successively to the next higher service step at the beginning of the first pay period immediately following the completion of 156 calendar weeks of active service in the member's service step.

"§ 10206. Technician positions

''(a) IN GENERAL.—(1) Each member whose position is determined under section 10202(a)(3) to be included as a technician position shall, on or after such date, receive, in addition to the member's scheduled rate of basic pay, an amount equal to 6 percent of the sum of such member's rate of basic pay and the applicable locality-based comparability payment.

''(2) A member described in this subsection shall receive the additional compensation authorized by this subsection until such time as the member's position is determined under section 10202(a)(3) not to be a technician position, or until the member no longer occupies such position, whichever occurs first.

''(3) The additional compensation authorized by this subsection shall be paid to a member in the same manner and at the same time as the member's basic pay is paid.

''(b) EXCEPTIONS.—(1) Except as provided in paragraph (2), the additional compensation authorized by subsection (a)(1) shall be considered as basic pay for all purposes, including section 8401(4).

''(2) The additional compensation authorized by subsection (a)(1) shall not be considered as basic pay for the purposes of—

''(A) section 5304; or

''(B) section 7511(a)(4).

''(3) The loss of the additional compensation authorized by subsection (a)(1) shall not constitute an adverse action for the purposes of section 7512.

"§ 10207. Promotions

''(a) IN GENERAL.—Each member who is promoted to a higher rank shall receive basic pay at the same step at which such member was being compensated prior to the date of the promotion.

''(b) CREDIT FOR SERVICE.—For the purposes of a service step adjustment under section 10205, periods of service at the lower rank shall be credited in the same manner as if it was service at the rank to which the employee is promoted.

"§ 10208. Demotions

''When a member is changed or demoted from any rank to a lower rank, the Secretary may fix the member's rate of basic pay at the rate of pay for any step in the lower rank which does not exceed the lowest step in the lower rank for which the rate of basic pay is equal to or greater than the member's existing rate of basic pay.

"§ 10209. Clothing allowances

''(a) IN GENERAL.—In addition to the benefits provided under section 5901, the Director of the United States Secret Service or the designee of the Director is authorized to provide a clothing allowance to a member assigned to perform duties in normal business or work attire purchased at the discretion of the employee. Such clothing allowance shall not to be treated as part of the member's basic pay for any purpose (including retirement purposes) and shall not be used for the purpose of computing the member's overtime pay, pay during leave or other paid time off, lump-sum payments under section 5551 or section 5552, workers' compensation, or any other benefit. Such allowance for any member may be discontinued at any time upon written notification by the Director of the United States Secret Service or the designee of the Director.

''(b) MAXIMUM AMOUNT AUTHORIZED.—A clothing allowance authorized under this section shall not exceed $500 per annum.

"§ 10210. Reporting requirement

''Not later than 3 years after the date of the enactment of this chapter, the Secretary shall prepare and transmit to Congress a report on the operation of this chapter. The report shall include—

''(1) an assessment of the effectiveness of this chapter with respect to efforts of the Secretary to recruit and retain well-qualified personnel; and

''(2) recommendations for any legislation or administrative action which the Secretary considers appropriate.''.

(b) ANNUAL LEAVE LIMITATION FOR MEMBERS IN THE DEPUTY CHIEF, ASSISTANT CHIEF, AND CHIEF RANKS.—Section 6304(f)(1) of title 5, United States Code, is amended—

(1) in subparagraph (F), by striking ''or'' after the semicolon;

(2) in subparagraph (G), by striking the period and inserting ''; or''; and

(3) by adding at the end the following:

''(H) a position in the United States Secret Service Uniformed Division at the rank of Deputy Chief, Assistant Chief, or Chief.''.

(c) SICK LEAVE FOR WORK-RELATED INJURIES AND ILLNESSES.—Section 6324 of title 5, United States Code, is amended—

(1) in subsection (a), by striking ''Executive Protective Service force'' and inserting ''United States Secret Service Uniformed Division'';

(2) in subsection (b)(3), by striking ''the Treasury for the Executive Protective Service force'' and inserting ''Homeland Security for the United States Secret Service Uniformed Division''; and

(3) by adding at the end the following:

''(c) This section shall not apply to members of the United States Secret Service Uniformed Division who are covered under chapter 84 for the purpose of retirement benefits.''.

SEC. 3. MISCELLANEOUS PROVISIONS.

(a) CONVERSION TO NEW SALARY SCHEDULE.—

(1) IN GENERAL.—

(A) RATES OF PAY FIXED.—Effective the first day of the first pay period which begins after the date of the enactment of this Act, the Secretary shall fix the rates of basic pay for members of the United States Secret Service Uniformed Division, as defined under section 10201 of title 5, United States Code, (as added by section 2(a)) in accordance with the provisions of this subsection.

(B) RATE BASED ON CREDITABLE SERVICE.—

(i) IN GENERAL.—Each member shall be placed in and receive basic pay at the corresponding scheduled rate under chapter 102 of title 5, United States Code, as added by section 2(a) (after any adjustment under paragraph (3) of this subsection) in accordance with the member's total years of creditable service, as provided in the table in this clause. If the scheduled rate of basic pay for the step to which the member would be assigned in accordance with this paragraph is lower than the member's rate of basic pay immediately before the date of enactment of this paragraph, the member shall be placed in and receive basic pay at the next higher service step, subject to the provisions of clause (iv). If the member's rate of pay exceeds the highest step of the rank, the rate of basic pay shall be determined in accordance with clause (iv).

Full Years of Creditable Service	Step Assigned Upon Conversion
0	1
1	2
2	3
3	4
5	5
7	6
9	7
11	8
13	9
15	10
17	11
19	12
22	13

(ii) CREDITABLE SERVICE.—For the purposes of this subsection, a member's creditable service is any police service in pay status with the United States Secret Service Uniformed Division, the United States Park Police, or the District of Columbia Metropolitan Police Department.

(iii) STEP 13 CONVERSION MAXIMUM RATE.—

(I) IN GENERAL.—A member who, at the time of conversion, is in step 13 of any rank below Deputy Chief, is entitled to that rate of basic pay which is the greater of—

(aa) the rate of pay for step 13 under the new salary schedule; or

(bb) the rate of pay for step 14 under the pay schedule in effect immediately before conversion.

(II) STEP 14 RATE.—Clause (iv) shall apply to a member whose pay is set in accordance with subclause (I)(bb).

(iv) ADJUSTMENT BASED ON FORMER RATE OF PAY.—

(I) DEFINITION.—In this clause, the term ''former rate of basic pay'' means the rate of basic pay last received by a member before the conversion.

(II) IN GENERAL.—If, as a result of conversion to the new salary schedule, the member's former rate of basic pay is greater than the maximum rate of basic pay payable for the rank of the member's position immediately after the conversion, the member is entitled to basic pay at a rate equal to the member's former rate of basic pay, and increased at the time of any increase in the maximum rate of basic pay payable for the rank of the member's position by 50 percent of the dollar amount of each such increase.

(III) PROMOTIONS.—For the purpose of applying section 10207 of title 5, United States Code, relating to promotions, (as added by section 2(a)) an employee receiving a rate above the maximum rate as provided under this clause shall be deemed to be at step 13.

(2) CREDIT FOR SERVICE.—Each member whose position is converted to the salary schedule under chapter 102 of title 5, United States Code, (as added by section 2(a)) in accordance with this subsection shall be granted credit for purposes of such member's first service step adjustment made after conversion to the salary schedule under that chapter for all satisfactory service performed by the member since the member's last increase in basic pay before the adjustment under this section.

(3) ADJUSTMENTS DURING TRANSITION.—The schedule of rates of basic pay shall be increased by the percentage of any annual adjustment applicable to the General Schedule authorized under section 5303 of title 5, United States Code, or any other authority, which takes effect during the period beginning on January 1, 2010, through the last day of the last pay period preceding the first pay period which begins after the date of the enactment of this Act. The Secretary of Homeland Security may establish a methodology of schedule adjustment that results in uniform fixed-dollar step increments within any given rank and preserves the established percentage differences among rates of different ranks at the same step position.

(b) IMPACT ON BENEFITS UNDER THE DISTRICT OF COLUMBIA POLICE AND FIREFIGHTERS' RETIREMENT AND DISABILITY SYSTEM.—

(1) SALARY INCREASES FOR PURPOSES OF CERTAIN PENSIONS AND ALLOWANCES.—For purposes of section 3 of the Act entitled ''An Act to provide increased pensions for widows and children of deceased members of the Police Department and the Fire Department of the District of Columbia'', approved August 4, 1949 (sec. 5–744, D.C. Official Code) and section 301 of the District of Columbia Police and Firemen's Salary Act of 1953 (sec. 5–745, D.C. Official Code)—

(A) the conversion of positions and members of the United States Secret Service Uniformed Division to appropriate ranks in the salary schedule set forth in this Act and the amendments made by this Act shall not be treated as an increase in the salary of individuals who are members of the United States Secret Service Uniformed Division on the date of the enactment of this Act; and

(B) any adjustment of rates of basic pay of those positions and individuals in accordance with this Act and the amendments made by this Act which is made after such conversion shall be treated as an increase in the salary of individuals who are members of the United States Secret Service Uniformed Division on the date of the enactment of this Act.

(2) TREATMENT OF RETIREMENT BENEFITS AND PENSIONS OF CURRENT AND FORMER MEMBERS.—Except as otherwise provided in this Act, nothing in this Act shall affect retirement benefits and pensions of current members and former members who have retired under the District of Columbia Police and Firefighters' Retirement and Disability System.

SEC. 4. TECHNICAL AND CONFORMING AMENDMENTS.

(a) IN GENERAL.—To the extent that any provision of any law codified in the District of Columbia Official Code that authorizes an entitlement to pay or hours of work for current members of the United States Secret Service Uniformed Division is not expressly revoked by this Act, such provision shall not apply to such members after the effective date of this Act.

(b) TECHNICAL AND CONFORMING AMENDMENTS TO LAWS CODIFIED IN DISTRICT OF COLUMBIA OFFICIAL CODE.—The following laws codified in the District of Columbia Official Code are amended as follows:

(1) The Act entitled ''An Act to provide for granting to officers and members of the Metropolitan Police force, the Fire Department of the District of Columbia, and the White House and United States Park Police forces additional compensation for working on holidays'', approved October 24, 1951, is amended—

(A) in the second sentence of section 1 (sec. 5–521.01, D.C. Official Code), by striking ''the Fire Department of the District of Columbia,'' and all that follows through ''and the United States Park Police Force'' and inserting ''the Fire Department of the District of Columbia, and the United States Park Police Force'';

(B) in section 2 (sec. 5–521.02, D.C. Official Code), by striking ''and with respect'' and all that follows through ''United States Park Police force'' and inserting ''and with respect to officers and members of the United States Park Police force''; and

(C) in section 3 (sec. 5–521.03, D.C. Official Code), by striking ''shall be applicable'' and all that follows and inserting the following: ''shall be applicable to the United States Park Police force under regulations promulgated by the Secretary of the Interior.''.

(2) The District of Columbia Police and Firemen's Salary Act of 1958 is amended as follows:

(A) In section 202 (sec. 5–542.02, D.C. Official Code), by striking ''United States Secret Service Uniformed Division,''.

(B) In section 301(b) (sec. 5–543.01(b), D.C. Official Code), by striking ''the United States Secret Service Uniformed Division,''.

(C) In section 302 (sec. 5–543.02, D.C. Official Code)—

(i) in subsection (a), by striking ''the Secretary of Treasury, in the case of the United States Secret Service Uniformed Division,'';

(ii) in subsection (b), by striking ''the United States Secret Service Uniformed Division or''; and

(iii) in subsection (e), by striking ''the United States Secret Service Uniformed Division or''.

(D) In section 303(a)(5) (sec. 5–543.03(a)(5), D.C. Official Code), by striking ''the United States Secret Service Uniformed Division and''.

(E) In section 304(d)(1) (sec. 5–543.04(d)(1)), by striking ''the United States Secret Service Uniformed Division or''.

(F) In section 305 (sec. 5–543.05, D.C. Official Code)—

(i) by striking ''the United States Secret Service Uniformed Division,''; and

(ii) by striking ''or the Secretary of the Treasury,''.

(G) In section 501 (sec. 5–545.01, D.C. Official Code)—

(i) in subsection (a), by striking ''and the United States Secret Service Uniformed Division'';

(ii) in subsection (c)(1)—

(I) by striking ''the United States Secret Service Uniformed Division and''; and

(II) in the schedule set forth in such subsection, by striking ''United States Secret Service Uniformed Division'';

(iii) in subsection (c)(2), by striking ''the annual rates of basic compensation'' and all that follows through ''the Secretary of the Treasury, and'';

(iv) in subsection (c)(5), by striking ''officers and members of the United States Secret Service Uniformed Division or'';

(v) in subsection (c)(6)(A), by striking ''the United States Secret Service Uniformed Division or''; and

(vi) in subsection (c)(7)(A), by striking ''the United States Secret Service Uniformed Division or''.

(H) In section 506 (sec. 5–545.06, D.C. Official Code), by striking '', the Secretary of the Treasury,''.

(3) Section 118 of the Treasury and General Government Appropriations Act, 1998, is amended by striking subsection (b) (sec. 5–561.01, D.C. Official Code).

(4) Section 905(a)(1) of the Law Enforcement Pay Equity Act of 2000 (Public Law 106–554; sec. 5–561.02(a)(1), D.C. Official Code) is amended by striking ''the Secretary of Treasury'' and all that follows through ''United States Secret Service Uniformed Division, and''.

(5) Subsection (k)(2)(B) of the Policemen and Firemen's Retirement and Disability Act (sec. 5–716(b)(2), D.C. Official Code) is amended by inserting '', or, for a member who was an officer or member of the United States Secret Service Uniformed Division, or the United States Secret Service Division, 40 percent of the corresponding salary for step 5 of the Officer rank in section 10203 of title 5, United States Code'' after ''member's death''.

(6) Section 1 of the Act entitled ''An Act to provide a 5-day week for officers and members of the Metropolitan Police force, the United States Park Police force, and the White House Police force, and for other purposes'', approved August 15, 1950 (sec. 5–1304, D.C. Official Code), is amended—

(A) in subsection (a)(1)—

(i) by inserting ''and'' before ''the Secretary of the Interior''; and

(ii) by striking '', and the Secretary of the Treasury in the case of the United States Secret Service Uniformed Division'';

(B) in subsection (a)(9)—

(i) by inserting ''or'' before ''the United States Park Police force''; and

(ii) by striking ''or the United States Secret Service Uniformed Division'';

(C) in subsection (b)—

(i) by inserting ''or'' before ''the Secretary of the Interior''; and

(ii) by striking ''or the Secretary of the Treasury,'';

(D) in subsection (h)(3)(A), by striking ''of the United States Secret Service Uniformed Division or''; and

(E) in subsection (h)(3)(B), by striking ''of the United States Secret Service Uniformed Division or''.

(7) Section 117(a) of the District of Columbia Police and Firemen's Salary Act Amendments of 1972 (sec. 5–1305, D.C. Official Code) is amended—

(A) by striking ''the Fire Department of the District of Columbia,'' and all that follows through ''or the United States Park Police force'' and inserting ''the Fire Department of the District of Columbia, or the United States Park Police force''; and

(B) by striking '', the Secretary of the Treasury,''.

(c) TECHNICAL AND CONFORMING AMENDMENTS TO THE UNITED STATES CODE.—Title 5 of the United States Code is amended—

(1) in section 5102(c)(5), by striking ''the Executive Protective Service'' and inserting ''the United States Secret Service Uniformed Division'';

(2) in section 5541(2)(iv)(II), by striking ''a member of the United States Secret Service Uniformed Division,''; and

(3) in the table of chapters for subpart I of part III by adding at the end the following:

''102. United States Secret Service Uniformed Division Personnel ..... 10201''.

SEC. 5. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on the first day of the first pay period which begins after the date of the enactment of this Act.

SA 4665. Mr. CASEY (for Mrs. FEINSTEIN (for herself and Mr. BOND)) proposed an amendment to the bill H.R. 2701, to authorize appropriations for fiscal year 2010 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Intelligence Authorization Act for Fiscal Year 2010''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—BUDGET AND PERSONNEL AUTHORIZATIONS

Sec. 101. Authorization of appropriations.
Sec. 102. Restriction on conduct of intelligence activities.
Sec. 103. Budgetary provisions.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

Sec. 201. Technical modification to mandatory retirement provision of the Central Intelligence Agency Retirement Act.

TITLE III—GENERAL INTELLIGENCE COMMUNITY MATTERS

Subtitle A—Personnel Matters

Sec. 301. Increase in employee compensation and benefits authorized by law.
Sec. 302. Enhanced flexibility in nonreimbursable details to elements of the intelligence community.
Sec. 303. Pay authority for critical positions.
Sec. 304. Award of rank to members of the Senior National Intelligence Service.
Sec. 305. Annual personnel level assessments for the intelligence community.
Sec. 306. Temporary personnel authorizations for critical language training.
Sec. 307. Conflict of interest regulations for intelligence community employees.

Subtitle B—Education Programs

Sec. 311. Permanent authorization for the Pat Roberts Intelligence Scholars Program.
Sec. 312. Modifications to the Louis Stokes Educational Scholarship Program.
Sec. 313. Intelligence officer training program.
Sec. 314. Pilot program for intensive language instruction in African languages.

Subtitle C—Acquisition Matters

Sec. 321. Vulnerability assessments of major systems.
Sec. 322. Intelligence community business system transformation.
Sec. 323. Reports on the acquisition of major systems.
Sec. 324. Critical cost growth in major systems.
Sec. 325. Future budget projections.
Sec. 326. National Intelligence Program funded acquisitions.

Subtitle D—Congressional Oversight, Plans, and Reports

Sec. 331. Notification procedures.
Sec. 332. Certification of compliance with oversight requirements.
Sec. 333. Report on detention and interrogation activities.
Sec. 334. Summary of intelligence relating to terrorist recidivism of detainees held at United States Naval Station, Guantanamo Bay, Cuba.
Sec. 335. Report and strategic plan on biological weapons.
Sec. 336. Cybersecurity oversight.
Sec. 337. Report on foreign language proficiency in the intelligence community.
Sec. 338. Report on plans to increase diversity within the intelligence community.
Sec. 339. Report on intelligence community contractors.
Sec. 340. Study on electronic waste destruction practices of the intelligence community.
Sec. 341. Review of records relating to potential health risks among Desert Storm veterans.
Sec. 342. Review of Federal Bureau of Investigation exercise of enforcement jurisdiction in foreign nations.
Sec. 343. Public release of information on procedures used in narcotics airbridge denial program in Peru.
Sec. 344. Report on threat from dirty bombs.
Sec. 345. Report on creation of space intelligence office.
Sec. 346. Report on attempt to detonate explosive device on Northwest Airlines flight 253.

Sec. 347. Repeal or modification of certain reporting requirements.
Sec. 348. Information access by the Comptroller General of the United States.
Sec. 349. Conforming amendments for report submission dates.
Subtitle E—Other Matters
Sec. 361. Extension of authority to delete information about receipt and disposition of foreign gifts and decorations.
Sec. 362. Modification of availability of funds for different intelligence activities.
Sec. 363. Protection of certain national security information.
Sec. 364. National Intelligence Program budget.
Sec. 365. Improving the review authority of the Public Interest Declassification Board.
Sec. 366. Authority to designate undercover operations to collect foreign intelligence or counterintelligence.
Sec. 367. Security clearances: reports; reciprocity.
Sec. 368. Correcting long-standing material weaknesses.
Sec. 369. Intelligence community financial improvement and audit readiness.
TITLE IV—MATTERS RELATING TO ELEMENTS OF THE INTELLIGENCE COMMUNITY
Subtitle A—Office of the Director of National Intelligence
Sec. 401. Accountability reviews by the Director of National Intelligence.
Sec. 402. Authorities for intelligence information sharing.
Sec. 403. Location of the Office of the Director of National Intelligence.
Sec. 404. Title and appointment of Chief Information Officer of the Intelligence Community.
Sec. 405. Inspector General of the Intelligence Community.
Sec. 406. Chief Financial Officer of the Intelligence Community.
Sec. 407. Leadership and location of certain offices and officials.
Sec. 408. Protection of certain files of the Office of the Director of National Intelligence.
Sec. 409. Counterintelligence initiatives for the intelligence community.
Sec. 410. Inapplicability of Federal Advisory Committee Act to advisory committees of the Office of the Director of National Intelligence.
Sec. 411. Membership of the Director of National Intelligence on the Transportation Security Oversight Board.
Sec. 412. Repeal of certain authorities relating to the Office of the National Counterintelligence Executive.
Sec. 413. Misuse of the Office of the Director of National Intelligence name, initials, or seal.
Sec. 414. Plan to implement recommendations of the data center energy efficiency reports.
Sec. 415. Director of National Intelligence support for reviews of International Traffic in Arms Regulations and Export Administration Regulations.
Subtitle B—Central Intelligence Agency
Sec. 421. Additional functions and authorities for protective personnel of the Central Intelligence Agency.
Sec. 422. Appeals from decisions involving contracts of the Central Intelligence Agency.
Sec. 423. Deputy Director of the Central Intelligence Agency.
Sec. 424. Authority to authorize travel on a common carrier.
Sec. 425. Inspector General for the Central Intelligence Agency.
Sec. 426. Budget of the Inspector General for the Central Intelligence Agency.
Sec. 427. Public availability of unclassified versions of certain intelligence products.
Subtitle C—Defense Intelligence Components
Sec. 431. Inspector general matters.
Sec. 432. Clarification of national security missions of National Geospatial-Intelligence Agency for analysis and dissemination of certain intelligence information.
Sec. 433. Director of Compliance of the National Security Agency.
Subtitle D—Other Elements
Sec. 441. Codification of additional elements of the intelligence community.
Sec. 442. Authorization of appropriations for Coast Guard National Tactical Integration Office.
Sec. 443. Retention and relocation bonuses for the Federal Bureau of Investigation.
Sec. 444. Extension of the authority of the Federal Bureau of Investigation to waive mandatory retirement provisions.
Sec. 445. Report and assessments on transformation of the intelligence capabilities of the Federal Bureau of Investigation.
TITLE V—REORGANIZATION OF THE DIPLOMATIC TELECOMMUNICATIONS SERVICE PROGRAM OFFICE
Sec. 501. Reorganization of the Diplomatic Telecommunications Service Program Office.
TITLE VI—FOREIGN INTELLIGENCE AND INFORMATION COMMISSION ACT
Sec. 601. Short title.
Sec. 602. Definitions.
Sec. 603. Establishment and functions of the Commission.
Sec. 604. Members and staff of the Commission.
Sec. 605. Powers and duties of the Commission.
Sec. 606. Report of the Commission.
Sec. 607. Termination.
Sec. 608. Nonapplicability of Federal Advisory Committee Act.
Sec. 609. Authorization of appropriations.
TITLE VII—OTHER MATTERS
Sec. 701. Extension of National Commission for the Review of the Research and Development Programs of the United States Intelligence Community.
Sec. 702. Classification review of executive branch materials in the possession of the congressional intelligence committees.
TITLE VIII—TECHNICAL AMENDMENTS
Sec. 801. Technical amendments to the Foreign Intelligence Surveillance Act of 1978.
Sec. 802. Technical amendments to the Central Intelligence Agency Act of 1949.
Sec. 803. Technical amendments to title 10, United States Code.
Sec. 804. Technical amendments to the National Security Act of 1947.
Sec. 805. Technical amendments relating to the multiyear National Intelligence Program.
Sec. 806. Technical amendments to the Intelligence Reform and Terrorism Prevention Act of 2004.
Sec. 807. Technical amendments to the Executive Schedule.
Sec. 808. Technical amendments to section 105 of the Intelligence Authorization Act for Fiscal Year 2004.
Sec. 809. Technical amendments to section 602 of the Intelligence Authorization Act for Fiscal Year 1995.
Sec. 810. Technical amendments to section 403 of the Intelligence Authorization Act, Fiscal Year 1992.

SEC. 2. DEFINITIONS.

In this Act:

(1) CONGRESSIONAL INTELLIGENCE COMMITTEES.—The term ''congressional intelligence committees'' means—

(A) the Select Committee on Intelligence of the Senate; and

(B) the Permanent Select Committee on Intelligence of the House of Representatives.

(2) INTELLIGENCE COMMUNITY.—The term ''intelligence community'' has the meaning given that term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

TITLE I—BUDGET AND PERSONNEL AUTHORIZATIONS

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

For the purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414), appropriated funds available to an intelligence agency may be obligated or expended for an intelligence or intelligence-related activity as appropriated for fiscal year 2010, as modified by such reprogramming and transfers of funds authorized by and reported to the appropriate congressional committees.

SEC. 102. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES.

The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity that is not otherwise authorized by the Constitution or the laws of the United States.

SEC. 103. BUDGETARY PROVISIONS.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go-Act of 2010, shall be determined by reference to the latest statement titled ''Budgetary Effects of PAYGO Legislation'' for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

SEC. 201. TECHNICAL MODIFICATION TO MANDATORY RETIREMENT PROVISION OF THE CENTRAL INTELLIGENCE AGENCY RETIREMENT ACT.

Subparagraph (A) of section 235(b)(1) of the Central Intelligence Agency Retirement Act (50 U.S.C. 2055(b)(1)) is amended by striking ''receiving compensation under the Senior Intelligence Service pay schedule at the rate'' and inserting ''who is at the Senior Intelligence Service rank''.

TITLE III—GENERAL INTELLIGENCE COMMUNITY MATTERS

Subtitle A—Personnel Matters

SEC. 301. INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW.

Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law.

SEC. 302. ENHANCED FLEXIBILITY IN NONREIMBURSABLE DETAILS TO ELEMENTS OF THE INTELLIGENCE COMMUNITY.

(a) IN GENERAL.—Title I of the National Security Act of 1947 (50 U.S.C. 402 et seq.) is amended by inserting after section 113 the following new section:

''DETAIL OF OTHER PERSONNEL

''SEC. 113A. Except as provided in section 904(g)(2) of the Counterintelligence Enhancement Act of 2002 (50 U.S.C. 402c(g)(2)) and section 113 of this Act, and notwithstanding any other provision of law, an officer or employee of the United States or member of the Armed Forces may be detailed to the staff of an element of the intelligence community funded through the National Intelligence Program from another element of the intelligence community or from another element of the United States Government on a reimbursable or nonreimbursable basis, as jointly agreed to by the head of the receiving element and the head of the detailing element, for a period not to exceed 2 years.''.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of such Act is amended by inserting after the item relating to section 113 the following new item:

''Sec. 113A. Detail of other personnel.''.

SEC. 303. PAY AUTHORITY FOR CRITICAL POSITIONS.

Section 102A of the National Security Act of 1947 (50 U.S.C. 403–1) is amended by adding at the end the following new subsection:

''(s) PAY AUTHORITY FOR CRITICAL POSITIONS.—(1) Notwithstanding any pay limitation established under any other provision of law applicable to employees in elements of the intelligence community, the Director of National Intelligence may, in coordination with the Director of the Office of Personnel Management and the Director of the Office of Management and Budget, grant authority to the head of a department or agency to fix the rate of basic pay for one or more positions within the intelligence community at a rate in excess of any applicable limitation, subject to the provisions of this subsection. The exercise of authority so granted is at the discretion of the head of the department or agency employing the individual in a position covered by such authority, subject to the provisions of this subsection and any conditions established by the Director of National Intelligence when granting such authority.

''(2) Authority under this subsection may be granted or exercised only—

''(A) with respect to a position that requires an extremely high level of expertise and is critical to successful accomplishment of an important mission; and

''(B) to the extent necessary to recruit or retain an individual exceptionally well qualified for the position.

''(3) The head of a department or agency may not fix a rate of basic pay under this subsection at a rate greater than the rate payable for level II of the Executive Schedule under section 5313 of title 5, United States Code, except upon written approval of the Director of National Intelligence or as otherwise authorized by law.

''(4) The head of a department or agency may not fix a rate of basic pay under this subsection at a rate greater than the rate payable for level I of the Executive Schedule under section 5312 of title 5, United States Code, except upon written approval of the President in response to a request by the Director of National Intelligence or as otherwise authorized by law.

''(5) Any grant of authority under this subsection for a position shall terminate at the discretion of the Director of National Intelligence.

''(6)(A) The Director of National Intelligence shall notify the congressional intelligence committees not later than 30 days after the date on which the Director grants authority to the head of a department or agency under this subsection.

''(B) The head of a department or agency to which the Director of National Intelligence grants authority under this subsection shall notify the congressional intelligence committees and the Director of the exercise of such authority not later than 30 days after the date on which such head exercises such authority.''.

SEC. 304. AWARD OF RANK TO MEMBERS OF THE SENIOR NATIONAL INTELLIGENCE SERVICE.

Section 102A of the National Security Act of 1947 (50 U.S.C. 403–1), as amended by section 303 of this Act, is further amended by adding at the end the following new subsection:

''(t) AWARD OF RANK TO MEMBERS OF THE SENIOR NATIONAL INTELLIGENCE SERVICE.—(1) The President, based on the recommendation of the Director of National Intelligence, may award a rank to a member of the Senior National Intelligence Service or other intelligence community senior civilian officer not already covered by such a rank award program in the same manner in which a career appointee of an agency may be awarded a rank under section 4507 of title 5, United States Code.

''(2) The President may establish procedures to award a rank under paragraph (1) to a member of the Senior National Intelligence Service or a senior civilian officer of the intelligence community whose identity as such a member or officer is classified information (as defined in section 606(1)).''.

SEC. 305. ANNUAL PERSONNEL LEVEL ASSESSMENTS FOR THE INTELLIGENCE COMMUNITY.

(a) ASSESSMENT.—Title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.) is amended by inserting after section 506A the following new section:

''ANNUAL PERSONNEL LEVEL ASSESSMENTS FOR THE INTELLIGENCE COMMUNITY

''SEC. 506B. (a) REQUIREMENT TO PROVIDE.—The Director of National Intelligence shall, in consultation with the head of each element of the intelligence community, prepare an annual personnel level assessment for such element that assesses the personnel levels for such element for the fiscal year following the fiscal year in which the assessment is submitted.

''(b) SCHEDULE.—Each assessment required by subsection (a) shall be submitted to the congressional intelligence committees each year at the time that the President submits to Congress the budget for a fiscal year pursuant to section 1105 of title 31, United States Code.

''(c) CONTENTS.—Each assessment required by subsection (a) submitted during a fiscal year shall contain the following information for the element of the intelligence community concerned:

''(1) The budget submission for personnel costs for the upcoming fiscal year.

''(2) The dollar and percentage increase or decrease of such costs as compared to the personnel costs of the current fiscal year.

''(3) The dollar and percentage increase or decrease of such costs as compared to the personnel costs during the prior 5 fiscal years.

''(4) The number of full-time equivalent positions that is the basis for which personnel funds are requested for the upcoming fiscal year.

''(5) The numerical and percentage increase or decrease of the number referred to in paragraph (4) as compared to the number of full-time equivalent positions of the current fiscal year.

''(6) The numerical and percentage increase or decrease of the number referred to in paragraph (4) as compared to the number of full-time equivalent positions during the prior 5 fiscal years.

''(7) The best estimate of the number and costs of core contract personnel to be funded by the element for the upcoming fiscal year.

''(8) The numerical and percentage increase or decrease of such costs of core contract personnel as compared to the best estimate of the costs of core contract personnel of the current fiscal year.

''(9) The numerical and percentage increase or decrease of such number and such costs of core contract personnel as compared to the number and cost of core contract personnel during the prior 5 fiscal years.

''(10) A justification for the requested personnel and core contract personnel levels.

''(11) The best estimate of the number of intelligence collectors and analysts employed or contracted by each element of the intelligence community.

''(12) A statement by the Director of National Intelligence that, based on current and projected funding, the element concerned will have sufficient—

''(A) internal infrastructure to support the requested personnel and core contract personnel levels;

''(B) training resources to support the requested personnel levels; and

''(C) funding to support the administrative and operational activities of the requested personnel levels.''.

(b) APPLICABILITY DATE.—The first assessment required to be submitted under section 506B(b) of the National Security Act of 1947, as added by subsection (a), shall be submitted to the congressional intelligence committees at the time that the President submits to Congress the budget for fiscal year 2012 pursuant to section 1105 of title 31, United States Code.

(c) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of such Act, as amended by section 302 of this Act, is further amended by inserting after the item relating to section 506A the following new item:

''Sec. 506B. Annual personnel level assessments for the intelligence community.''.

SEC. 306. TEMPORARY PERSONNEL AUTHORIZATIONS FOR CRITICAL LANGUAGE TRAINING.

Section 102A(e) of the National Security Act of 1947 (50 U.S.C. 403–1(e)) is amended by—

(1) redesignating paragraph (3) as paragraph (4); and

(2) inserting after paragraph (2) the following new paragraph:

''(3)(A) In addition to the number of full-time equivalent positions authorized for the Office of the Director of National Intelligence for a fiscal year, there is authorized for such Office for each fiscal year an additional 100 full-time equivalent positions that may be used only for the purposes described in subparagraph (B).

''(B) Except as provided in subparagraph (C), the Director of National Intelligence may use a full-time equivalent position authorized under subparagraph (A) only for the purpose of providing a temporary transfer of personnel made in accordance with paragraph (2) to an element of the intelligence community to enable such element to increase the total number of personnel authorized for such element, on a temporary basis—

''(i) during a period in which a permanent employee of such element is absent to participate in critical language training; or

''(ii) to accept a permanent employee of another element of the intelligence community to provide language-capable services.

''(C) Paragraph (2)(B) shall not apply with respect to a transfer of personnel made under subparagraph (B).

''(D) The Director of National Intelligence shall submit to the congressional intelligence committees an annual report on the use of authorities under this paragraph. Each such report shall include a description of—

''(i) the number of transfers of personnel made by the Director pursuant to subparagraph (B), disaggregated by each element of the intelligence community;

''(ii) the critical language needs that were fulfilled or partially fulfilled through the use of such transfers; and

''(iii) the cost to carry out subparagraph (B).''.

SEC. 307. CONFLICT OF INTEREST REGULATIONS FOR INTELLIGENCE COMMUNITY EMPLOYEES.

Section 102A of the National Security Act of 1947 (50 U.S.C. 403–1), as amended by section 304 of this Act, is further amended by adding at the end the following new subsection:

''(u) CONFLICT OF INTEREST REGULATIONS.—(1) The Director of National Intelligence, in consultation with the Director of the Office of Government Ethics, shall issue regulations prohibiting an officer or employee of an element of the intelligence community from engaging in outside employment if such employment creates a conflict of interest or appearance thereof.

''(2) The Director of National Intelligence shall annually submit to the congressional intelligence committees a report describing all outside employment for officers and employees of elements of the intelligence community that was authorized by the head of an element of the intelligence community during the preceding calendar year. Such report shall be submitted each year on the date provided in section 507.''.

Subtitle B—Education Programs

SEC. 311. PERMANENT AUTHORIZATION FOR THE PAT ROBERTS INTELLIGENCE SCHOLARS PROGRAM.

(a) PERMANENT AUTHORIZATION.—Subtitle C of title X of the National Security Act of 1947 (50 U.S.C. 441m et seq.) is amended by adding at the end the following new section:

''PROGRAM ON RECRUITMENT AND TRAINING

''SEC. 1022. (a) PROGRAM.—(1) The Director of National Intelligence shall carry out a program to ensure that selected students or former students are provided funds to continue academic training, or are reimbursed for academic training previously obtained, in areas of specialization that the Director, in consultation with the other heads of the elements of the intelligence community, identifies as areas in which the current capabilities of the intelligence community are deficient or in which future capabilities of the intelligence community are likely to be deficient.

''(2) A student or former student selected for participation in the program shall commit to employment with an element of the intelligence community, following completion of appropriate academic training, under such terms and conditions as the Director considers appropriate.

''(3) The program shall be known as the Pat Roberts Intelligence Scholars Program.

''(b) ELEMENTS.—In carrying out the program under subsection (a), the Director shall—

''(1) establish such requirements relating to the academic training of participants as the Director considers appropriate to ensure that participants are prepared for employment as intelligence professionals; and

''(2) periodically review the areas of specialization of the elements of the intelligence community to determine the areas in which such elements are, or are likely to be, deficient in capabilities.

''(c) USE OF FUNDS.—Funds made available for the program under subsection (a) shall be used—

''(1) to provide a monthly stipend for each month that a student is pursuing a course of study;

''(2) to pay the full tuition of a student or former student for the completion of such course of study;

''(3) to pay for books and materials that the student or former student requires or required to complete such course of study;

''(4) to pay the expenses of the student or former student for travel requested by an element of the intelligence community in relation to such program; or

''(5) for such other purposes the Director considers reasonably appropriate to carry out such program.''.

(b) CONFORMING AMENDMENTS.—

(1) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of such Act, as amended by section 305 of this Act, is further amended—

(A) by transferring the item relating to section 1002 so such item immediately follows the item relating to section 1001; and

(B) by inserting after the item relating to section 1021 the following new item:

''Sec. 1022. Program on recruitment and training.''.

(2) REPEAL OF PILOT PROGRAM.—

(A) AUTHORITY.—Section 318 of the Intelligence Authorization Act for Fiscal Year 2004 (Public Law 108–177; 50 U.S.C. 441g note) is repealed.

(B) TABLE OF CONTENTS AMENDMENT.—The table of contents in section 1 of the Intelligence Authorization Act for Fiscal Year 2004 (Public Law 108–177; 117 Stat. 2599) is amended by striking the item relating to section 318.

SEC. 312. MODIFICATIONS TO THE LOUIS STOKES EDUCATIONAL SCHOLARSHIP PROGRAM.

(a) EXPANSION OF THE LOUIS STOKES EDUCATIONAL SCHOLARSHIP PROGRAM TO GRADUATE STUDENTS.—Section 16 of the National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended—

(1) in subsection (a)—

(A) by inserting ''and graduate'' after ''undergraduate''; and

(B) by striking ''the baccalaureate'' and inserting ''a baccalaureate or graduate'';

(2) in subsection (b), by inserting ''or graduate'' after ''undergraduate'';

(3) in subsection (e)(2), by inserting ''and graduate'' after ''undergraduate''; and

(4) by adding at the end the following new subsection:

''(h) The undergraduate and graduate training program established under this section shall be known as the Louis Stokes Educational Scholarship Program.''.

(b) AUTHORITY FOR PARTICIPATION BY INDIVIDUALS WHO ARE NOT EMPLOYED BY THE UNITED STATES GOVERNMENT.—

(1) IN GENERAL.—Subsection (b) of section 16 of the National Security Agency Act of 1959 (50 U.S.C. 402 note), as amended by subsection (a)(2), is further amended by striking ''civilian employees'' and inserting ''civilians who may or may not be employees''.

(2) CONFORMING AMENDMENTS.—Section 16 of the National Security Agency Act of 1959 (50 U.S.C. 402 note), as amended by subsection (a), is further amended—

(A) in subsection (c), by striking ''employees'' and inserting ''program participants''; and

(B) in subsection (d)—

(i) in paragraph (1)—

(I) in the matter preceding subparagraph (A), strike ''an employee of the Agency,'' and insert ''a program participant,'';

(II) in subparagraph (A), by striking ''employee'' and inserting ''program participant'';

(III) in subparagraph (C)—

(aa) by striking ''employee'' each place that term appears and inserting ''program participant''; and

(bb) by striking ''employee's'' each place that term appears and inserting ''program participant's''; and

(IV) in subparagraph (D)—

(aa) by striking ''employee'' each place that term appears and inserting ''program participant''; and

(bb) by striking ''employee's'' each place that term appears and inserting ''program participant's''; and

(ii) in paragraph (3)(C)—

(I) by striking ''employee'' both places that term appears and inserting ''program participant''; and

(II) by striking ''employee's'' and inserting ''program participant's''.

(c) TERMINATION OF PROGRAM PARTICIPANTS.—Subsection (d)(1)(C) of section 16 of the National Security Agency Act of 1959 (50 U.S.C. 402 note), as amended by subsection (b)(2)(B)(i)(III), is further amended by striking ''terminated'' and all that follows and inserting ''terminated—

''(i) by the Agency due to misconduct by the program participant;

''(ii) by the program participant voluntarily; or

''(iii) by the Agency for the failure of the program participant to maintain such level of academic standing in the educational course of training as the Director of the National Security Agency shall have specified in the agreement of the program participant under this subsection; and''.

(d) AUTHORITY TO WITHHOLD DISCLOSURE OF AFFILIATION WITH NSA.—Subsection (e) of Section 16 of the National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended by striking ''(1) When an employee'' and all that follows through ''(2) Agency efforts'' and inserting ''Agency efforts''.

(e) AUTHORITY OF ELEMENTS OF THE INTELLIGENCE COMMUNITY TO ESTABLISH A STOKES EDUCATIONAL SCHOLARSHIP PROGRAM.—

(1) AUTHORITY.—Subtitle C of title X of the National Security Act of 1947 (50 U.S.C. 441m et seq.), as amended by section 311 of this Act, is further amended by adding at the end the following new section:

''EDUCATIONAL SCHOLARSHIP PROGRAM

''SEC. 1023. The head of a department or agency containing an element of the intelligence community may establish an undergraduate or graduate training program with respect to civilian employees and prospective civilian employees of such element similar in purpose, conditions, content, and administration to the program that the Secretary of Defense is authorized to establish under section 16 of the National Security Agency Act of 1959 (50 U.S.C. 402 note).''.

(2) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of the National Security Act of 1947, as amended by section 311 of this Act, is further amended by inserting after the item relating to section 1022, as added by such section 311, the following new item:

''Sec. 1023. Educational scholarship program.''.

SEC. 313. INTELLIGENCE OFFICER TRAINING PROGRAM.

(a) PROGRAM.—Subtitle C of title X of the National Security Act of 1947 (50 U.S.C. 441m et seq.), as amended by section 312(e) of this Act, is further amended by adding at the end the following new section:

''INTELLIGENCE OFFICER TRAINING PROGRAM

''SEC. 1024. (a) PROGRAMS.—(1) The Director of National Intelligence may carry out grant programs in accordance with subsection (b) to enhance the recruitment and retention of an ethnically and culturally diverse intelligence community workforce with capabilities critical to the national security interests of the United States.

''(2) In carrying out paragraph (1), the Director shall identify the skills necessary to meet current or emergent needs of the intelligence community and the educational disciplines that will provide individuals with such skills.

''(b) INSTITUTIONAL GRANT PROGRAM.—(1) The Director may provide grants to institutions of higher education to support the establishment or continued development of programs of study in educational disciplines identified under subsection (a)(2).

''(2) A grant provided under paragraph (1) may, with respect to the educational disciplines identified under subsection (a)(2), be used for the following purposes:

''(A) Curriculum or program development.

''(B) Faculty development.

''(C) Laboratory equipment or improvements.

''(D) Faculty research.

''(c) APPLICATION.—An institution of higher education seeking a grant under this section shall submit an application describing the proposed use of the grant at such time and in such manner as the Director may require.

''(d) REPORTS.—An institution of higher education that receives a grant under this section shall submit to the Director regular reports regarding the use of such grant, including—

''(1) a description of the benefits to students who participate in the course of study funded by such grant;

''(2) a description of the results and accomplishments related to such course of study; and

''(3) any other information that the Director may require.

''(e) REGULATIONS.—The Director shall prescribe such regulations as may be necessary to carry out this section.

''(f) DEFINITIONS.—In this section:

''(1) The term 'Director' means the Director of National Intelligence.

''(2) The term 'institution of higher education' has the meaning given the term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).''.

(b) REPEAL OF DUPLICATIVE PROVISIONS.—

(1) IN GENERAL.—The following provisions of law are repealed:

(A) Subsections (b) through (g) of section 319 of the Intelligence Authorization Act for Fiscal Year 2004 (Public Law 108–177; 50 U.S.C. 403 note).

(B) Section 1003 of the National Security Act of 1947 (50 U.S.C. 441g–2).

(C) Section 922 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 50 U.S.C. 402 note).

(2) EXISTING AGREEMENTS.—Notwithstanding the repeals made by paragraph (1), nothing in this subsection shall be construed to amend, modify, or abrogate any agreement, contract, or employment relationship that was in effect in relation to the provisions repealed under paragraph (1) on the day prior to the date of the enactment of this Act.

(3) TECHNICAL AMENDMENT.—Section 319 of the Intelligence Authorization Act for Fiscal Year 2004 (Public Law 108–177; 50 U.S.C. 403 note) is amended by striking ''(a) FINDINGS.—''.

(c) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of the National Security Act of 1947, as amended by section 312 of this Act, is further amended by striking the item relating to section 1003 and inserting the following new item:

''Sec. 1024. Intelligence officer training program.''.

SEC. 314. PILOT PROGRAM FOR INTENSIVE LANGUAGE INSTRUCTION IN AFRICAN LANGUAGES.

(a) ESTABLISHMENT.—The Director of National Intelligence, in consultation with the National Security Education Board established under section 803(a) of the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1903(a)), may establish a pilot program for intensive language instruction in African languages.

(b) PROGRAM.—A pilot program established under subsection (a) shall provide scholarships for programs that provide intensive language instruction—

(1) in any of the five highest priority African languages for which scholarships are not offered under the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1901 et seq.), as determined by the Director of National Intelligence; and

(2) both in the United States and in a country in which the language is the native language of a significant portion of the population, as determined by the Director of National Intelligence.

(c) TERMINATION.—A pilot program established under subsection (a) shall terminate on the date that is five years after the date on which such pilot program is established.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $2,000,000.

(2) AVAILABILITY.—Funds authorized to be appropriated under paragraph (1) shall remain available until the termination of the pilot program in accordance with subsection (c).

Subtitle C—Acquisition Matters

SEC. 321. VULNERABILITY ASSESSMENTS OF MAJOR SYSTEMS.

(a) VULNERABILITY ASSESSMENTS OF MAJOR SYSTEMS.—

(1) IN GENERAL.—Title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.), as amended by section 305 of this Act, is further amended by inserting after section 506B, as added by section 305(a), the following new section:

''VULNERABILITY ASSESSMENTS OF MAJOR SYSTEMS

''SEC. 506C. (a) INITIAL VULNERABILITY ASSESSMENTS.—(1)(A) Except as provided in subparagraph (B), the Director of National Intelligence shall conduct and submit to the congressional intelligence committees an initial vulnerability assessment for each major system and its significant items of supply—

''(i) except as provided in clause (ii), prior to the completion of Milestone B or an equivalent acquisition decision for the major system; or

''(ii) prior to the date that is 1 year after the date of the enactment of the Intelligence Authorization Act for Fiscal Year 2010 in the case of a major system for which Milestone B or an equivalent acquisition decision—

''(I) was completed prior to such date of enactment; or

''(II) is completed on a date during the 180-day period following such date of enactment.

''(B) The Director may submit to the congressional intelligence committees an initial vulnerability assessment required by clause (ii) of subparagraph (A) not later than 180 days after the date such assessment is required to be submitted under such clause if the Director notifies the congressional intelligence committees of the extension of the submission date under this subparagraph and provides a justification for such extension.

''(C) The initial vulnerability assessment of a major system and its significant items of supply shall include use of an analysis-based approach to—

''(i) identify vulnerabilities;

''(ii) define exploitation potential;

''(iii) examine the system's potential effectiveness;

''(iv) determine overall vulnerability; and

''(v) make recommendations for risk reduction.

''(2) If an initial vulnerability assessment for a major system is not submitted to the congressional intelligence committees as required by paragraph (1), funds appropriated for the acquisition of the major system may not be obligated for a major contract related to the major system. Such prohibition on the obligation of funds for the acquisition of the major system shall cease to apply on the date on which the congressional intelligence committees receive the initial vulnerability assessment.

''(b) SUBSEQUENT VULNERABILITY ASSESSMENTS.—(1) The Director of National Intelligence shall, periodically throughout the procurement of a major system or if the Director determines that a change in circumstances warrants the issuance of a subsequent vulnerability assessment, conduct a subsequent vulnerability assessment of each major system and its significant items of supply within the National Intelligence Program.

''(2) Upon the request of a congressional intelligence committee, the Director of National Intelligence may, if appropriate, recertify the previous vulnerability assessment or may conduct a subsequent vulnerability assessment of a particular major system and its significant items of supply within the National Intelligence Program.

''(3) Any subsequent vulnerability assessment of a major system and its significant items of supply shall include use of an analysis-based approach and, if applicable, a testing-based approach, to monitor the exploitation potential of such system and reexamine the factors described in clauses (i) through (v) of subsection (a)(1)(C).

''(c) MAJOR SYSTEM MANAGEMENT.—The Director of National Intelligence shall give due consideration to the vulnerability assessments prepared for a given major system when developing and determining the National Intelligence Program budget.

''(d) CONGRESSIONAL OVERSIGHT.—(1) The Director of National Intelligence shall provide to the congressional intelligence committees a copy of each vulnerability assessment conducted under subsection (a) or (b) not later than 10 days after the date of the completion of such assessment.

''(2) The Director of National Intelligence shall provide the congressional intelligence committees with a proposed schedule for subsequent periodic vulnerability assessments of a major system under subsection (b)(1) when providing such committees with the initial vulnerability assessment under subsection (a) of such system as required by paragraph (1).

''(e) DEFINITIONS.—In this section:

''(1) The term 'item of supply' has the meaning given that term in section 4(10) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(10)).

''(2) The term 'major contract' means each of the 6 largest prime, associate, or Government-furnished equipment contracts under a major system that is in excess of $40,000,000 and that is not a firm, fixed price contract.

''(3) The term 'major system' has the meaning given that term in section 506A(e).

''(4) The term 'Milestone B' means a decision to enter into major system development

and demonstration pursuant to guidance prescribed by the Director of National Intelligence.

''(5) The term 'vulnerability assessment' means the process of identifying and quantifying vulnerabilities in a major system and its significant items of supply.''.

(2) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of the National Security Act of 1947, as amended by section 313 of this Act, is further amended by inserting after the item relating to section 506B, as added by section 305(c) of this Act, the following new item:

''Sec. 506C. Vulnerability assessments of major systems.''.

(b) DEFINITION OF MAJOR SYSTEM.—Paragraph (3) of section 506A(e) of the National Security Act of 1947 (50 U.S.C. 415a–1(e)) is amended by striking ''(in current fiscal year dollars)'' and inserting ''(based on fiscal year 2010 constant dollars)''.

SEC. 322. INTELLIGENCE COMMUNITY BUSINESS SYSTEM TRANSFORMATION.

(a) INTELLIGENCE COMMUNITY BUSINESS SYSTEM TRANSFORMATION.—

(1) IN GENERAL.—Title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.), as amended by section 321 of this Act, is further amended by inserting after section 506C, as added by section 321(a), the following new section:

''INTELLIGENCE COMMUNITY BUSINESS SYSTEM TRANSFORMATION

''SEC. 506D. (a) LIMITATION ON OBLIGATION OF FUNDS.—(1) Subject to paragraph (3), no funds appropriated to any element of the intelligence community may be obligated for an intelligence community business system transformation that will have a total cost in excess of $3,000,000 unless—

''(A) the Director of the Office of Business Transformation of the Office of the Director of National Intelligence makes a certification described in paragraph (2) with respect to such intelligence community business system transformation; and

''(B) such certification is approved by the board established under subsection (f).

''(2) The certification described in this paragraph for an intelligence community business system transformation is a certification made by the Director of the Office of Business Transformation of the Office of the Director of National Intelligence that the intelligence community business system transformation—

''(A) complies with the enterprise architecture under subsection (b) and such other policies and standards that the Director of National Intelligence considers appropriate; or

''(B) is necessary—

''(i) to achieve a critical national security capability or address a critical requirement; or

''(ii) to prevent a significant adverse effect on a project that is needed to achieve an essential capability, taking into consideration any alternative solutions for preventing such adverse effect.

''(3) With respect to a fiscal year after fiscal year 2010, the amount referred to in paragraph (1) in the matter preceding subparagraph (A) shall be equal to the sum of—

''(A) the amount in effect under such paragraph (1) for the preceding fiscal year (determined after application of this paragraph), plus

''(B) such amount multiplied by the annual percentage increase in the consumer price index (all items; U.S. city average) as of September of the previous fiscal year.

''(b) ENTERPRISE ARCHITECTURE FOR INTELLIGENCE COMMUNITY BUSINESS SYSTEMS.—(1) The Director of National Intelligence shall, acting through the board established under subsection (f), develop and implement an enterprise architecture to cover all intelligence community business systems, and the functions and activities supported by such business systems. The enterprise architecture shall be sufficiently defined to effectively guide, constrain, and permit implementation of interoperable intelligence community business system solutions, consistent with applicable policies and procedures established by the Director of the Office of Management and Budget.

''(2) The enterprise architecture under paragraph (1) shall include the following:

''(A) An information infrastructure that will enable the intelligence community to—

''(i) comply with all Federal accounting, financial management, and reporting requirements;

''(ii) routinely produce timely, accurate, and reliable financial information for management purposes;

''(iii) integrate budget, accounting, and program information and systems; and

''(iv) provide for the measurement of performance, including the ability to produce timely, relevant, and reliable cost information.

''(B) Policies, procedures, data standards, and system interface requirements that apply uniformly throughout the intelligence community.

''(c) RESPONSIBILITIES FOR INTELLIGENCE COMMUNITY BUSINESS SYSTEM TRANSFORMATION.—The Director of National Intelligence shall be responsible for the entire life cycle of an intelligence community business system transformation, including review, approval, and oversight of the planning, design, acquisition, deployment, operation, and maintenance of the business system transformation.

''(d) INTELLIGENCE COMMUNITY BUSINESS SYSTEM INVESTMENT REVIEW.—(1) The Director of the Office of Business Transformation of the Office of the Director of National Intelligence shall establish and implement, not later than 60 days after the enactment of the Intelligence Authorization Act for Fiscal Year 2010, an investment review process for the intelligence community business systems for which the Director of the Office of Business Transformation is responsible.

''(2) The investment review process under paragraph (1) shall—

''(A) meet the requirements of section 11312 of title 40, United States Code; and

''(B) specifically set forth the responsibilities of the Director of the Office of Business Transformation under such review process.

''(3) The investment review process under paragraph (1) shall include the following elements:

''(A) Review and approval by an investment review board (consisting of appropriate representatives of the intelligence community) of each intelligence community business system as an investment before the obligation of funds for such system.

''(B) Periodic review, but not less often than annually, of every intelligence community business system investment.

''(C) Thresholds for levels of review to ensure appropriate review of intelligence community business system investments depending on the scope, complexity, and cost of the system involved.

''(D) Procedures for making certifications in accordance with the requirements of subsection (a)(2).

''(e) BUDGET INFORMATION.—For each fiscal year after fiscal year 2011, the Director of National Intelligence shall include in the materials the Director submits to Congress in support of the budget for such fiscal year that is submitted to Congress under section 1105 of title 31, United States Code, the following information:

''(1) An identification of each intelligence community business system for which funding is proposed in such budget.

''(2) An identification of all funds, by appropriation, proposed in such budget for each such system, including—

''(A) funds for current services to operate and maintain such system;

''(B) funds for business systems modernization identified for each specific appropriation; and

''(C) funds for associated business process improvement or reengineering efforts.

''(3) The certification, if any, made under subsection (a)(2) with respect to each such system.

''(f) INTELLIGENCE COMMUNITY BUSINESS SYSTEM TRANSFORMATION GOVERNANCE BOARD.—(1) The Director of National Intelligence shall establish a board within the intelligence community business system transformation governance structure (in this subsection referred to as the 'Board').

''(2) The Board shall—

''(A) recommend to the Director policies and procedures necessary to effectively integrate all business activities and any transformation, reform, reorganization, or process improvement initiatives undertaken within the intelligence community;

''(B) review and approve any major update of—

''(i) the enterprise architecture developed under subsection (b); and

''(ii) any plans for an intelligence community business systems modernization;

''(C) manage cross-domain integration consistent with such enterprise architecture;

''(D) coordinate initiatives for intelligence community business system transformation to maximize benefits and minimize costs for the intelligence community, and periodically report to the Director on the status of efforts to carry out an intelligence community business system transformation;

''(E) ensure that funds are obligated for intelligence community business system transformation in a manner consistent with subsection (a); and

''(F) carry out such other duties as the Director shall specify.

''(g) RELATION TO ANNUAL REGISTRATION REQUIREMENTS.—Nothing in this section shall be construed to alter the requirements of section 8083 of the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 989), with regard to information technology systems (as defined in subsection (d) of such section).

''(h) RELATIONSHIP TO DEFENSE BUSINESS ENTERPRISE ARCHITECTURE.—Nothing in this section shall be construed to exempt funds authorized to be appropriated to the Department of Defense from the requirements of section 2222 of title 10, United States Code, to the extent that such requirements are otherwise applicable.

''(i) RELATION TO CLINGER-COHEN ACT.—(1) Executive agency responsibilities in chapter 113 of title 40, United States Code, for any intelligence community business system transformation shall be exercised jointly by—

''(A) the Director of National Intelligence and the Chief Information Officer of the Intelligence Community; and

''(B) the head of the executive agency that contains the element of the intelligence community involved and the chief information officer of that executive agency.

''(2) The Director of National Intelligence and the head of the executive agency referred to in paragraph (1)(B) shall enter into a Memorandum of Understanding to carry out the requirements of this section in a manner that best meets the needs of the intelligence community and the executive agency.

''(j) REPORTS.—Not later than March 31 of each of the years 2011 through 2015, the Director of National Intelligence shall submit to the congressional intelligence committees a report on the compliance of the intelligence community with the requirements of this section. Each such report shall—

''(1) describe actions taken and proposed for meeting the requirements of subsection (a), including—

''(A) specific milestones and actual performance against specified performance measures, and any revision of such milestones and performance measures; and

''(B) specific actions on the intelligence community business system transformations submitted for certification under such subsection;

''(2) identify the number of intelligence community business system transformations that received a certification described in subsection (a)(2); and

''(3) describe specific improvements in business operations and cost savings resulting from successful intelligence community business systems transformation efforts.

''(k) DEFINITIONS.—In this section:

''(1) The term 'enterprise architecture' has the meaning given that term in section 3601(4) of title 44, United States Code.

''(2) The terms 'information system' and 'information technology' have the meanings given those terms in section 11101 of title 40, United States Code.

''(3) The term 'intelligence community business system' means an information system, including a national security system, that is operated by, for, or on behalf of an element of the intelligence community, including a financial system, mixed system, financial data feeder system, and the business infrastructure capabilities shared by the systems of the business enterprise architecture, including people, process, and technology, that build upon the core infrastructure used to support business activities, such as acquisition, financial management, logistics, strategic planning and budgeting, installations and environment, and human resource management.

''(4) The term 'intelligence community business system transformation' means—

''(A) the acquisition or development of a new intelligence community business system; or

''(B) any significant modification or enhancement of an existing intelligence community business system (other than necessary to maintain current services).

''(5) The term 'national security system' has the meaning given that term in section 3542 of title 44, United States Code.

''(6) The term 'Office of Business Transformation of the Office of the Director of National Intelligence' includes any successor office that assumes the functions of the Office of Business Transformation of the Office of the Director of National Intelligence as carried out by the Office of Business Transformation on the date of the enactment of the Intelligence Authorization Act for Fiscal Year 2010.''.

(2) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of that Act, as amended by section 321 of this Act, is further amended by inserting after the item relating to section 506C, as added by section 321(a)(2), the following new item:

''Sec. 506D. Intelligence community business system transformation.''.

(b) IMPLEMENTATION.—

(1) CERTAIN DUTIES.—Not later than 60 days after the date of the enactment of this Act, the Director of National Intelligence shall designate a chair and other members to serve on the board established under subsection (f) of such section 506D of the National Security Act of 1947 (as added by subsection (a)).

(2) ENTERPRISE ARCHITECTURE.—

(A) SCHEDULE FOR DEVELOPMENT.—The Director shall develop the enterprise architecture required by subsection (b) of such section 506D (as so added), including the initial Business Enterprise Architecture for business transformation, not later than 60 days after the enactment of this Act.

(B) REQUIREMENT FOR IMPLEMENTATION PLAN.—In developing such an enterprise architecture, the Director shall develop an implementation plan for such enterprise architecture that includes the following:

(i) An acquisition strategy for new systems that are expected to be needed to complete such enterprise architecture, including specific time-phased milestones, performance metrics, and a statement of the financial and nonfinancial resource needs.

(ii) An identification of the intelligence community business systems in operation or planned as of the date that is 60 days after the enactment of this Act that will not be a part of such enterprise architecture, together with the schedule for the phased termination of the utilization of any such systems.

(iii) An identification of the intelligence community business systems in operation or planned as of such date, that will be a part of such enterprise architecture, together with a strategy for modifying such systems to ensure that such systems comply with such enterprise architecture.

(C) SUBMISSION OF ACQUISITION STRATEGY.—Based on the results of an enterprise process management review and the availability of funds, the Director shall submit the acquisition strategy described in subparagraph (B)(i) to the congressional intelligence committees not later than March 31, 2011.

SEC. 323. REPORTS ON THE ACQUISITION OF MAJOR SYSTEMS.

(a) REPORTS.—

(1) IN GENERAL.—Title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.), as amended by section 322 of this Act, is further amended by inserting after section 506D, as added by section 322(a)(1), the following new section:

''REPORTS ON THE ACQUISITION OF MAJOR SYSTEMS

''SEC. 506E. (a) DEFINITIONS.—In this section:

''(1) The term 'cost estimate'—

''(A) means an assessment and quantification of all costs and risks associated with the acquisition of a major system based upon reasonably available information at the time the Director establishes the 2010 adjusted total acquisition cost for such system pursuant to subsection (h) or restructures such system pursuant to section 506F(c); and

''(B) does not mean an 'independent cost estimate'.

''(2) The term 'critical cost growth threshold' means a percentage increase in the total acquisition cost for a major system of at least 25 percent over the total acquisition cost for the major system as shown in the current Baseline Estimate for the major system.

''(3)(A) The term 'current Baseline Estimate' means the projected total acquisition cost of a major system that is—

''(i) approved by the Director, or a designee of the Director, at Milestone B or an equivalent acquisition decision for the development, procurement, and construction of such system;

''(ii) approved by the Director at the time such system is restructured pursuant to section 506F(c); or

''(iii) the 2010 adjusted total acquisition cost determined pursuant to subsection (h).

''(B) A current Baseline Estimate may be in the form of an independent cost estimate.

''(4) Except as otherwise specifically provided, the term 'Director' means the Director of National Intelligence.

''(5) The term 'independent cost estimate' has the meaning given that term in section 506A(e).

''(6) The term 'major contract' means each of the 6 largest prime, associate, or Government-furnished equipment contracts under a major system that is in excess of $40,000,000 and that is not a firm, fixed price contract.

''(7) The term 'major system' has the meaning given that term in section 506A(e).

''(8) The term 'Milestone B' means a decision to enter into major system development and demonstration pursuant to guidance prescribed by the Director.

''(9) The term 'program manager' means—

''(A) the head of the element of the intelligence community that is responsible for the budget, cost, schedule, and performance of a major system; or

''(B) in the case of a major system within the Office of the Director of National Intelligence, the deputy who is responsible for the budget, cost, schedule, and performance of the major system.

''(10) The term 'significant cost growth threshold' means the percentage increase in the total acquisition cost for a major system of at least 15 percent over the total acquisition cost for such system as shown in the current Baseline Estimate for such system.

''(11) The term 'total acquisition cost' means the amount equal to the total cost for development and procurement of, and system-specific construction for, a major system.

''(b) MAJOR SYSTEM COST REPORTS.—(1) The program manager for a major system shall, on a quarterly basis, submit to the Director a major system cost report as described in paragraph (2).

''(2) A major system cost report shall include the following information (as of the last day of the quarter for which the report is made):

''(A) The total acquisition cost for the major system.

''(B) Any cost variance or schedule variance in a major contract for the major system since the contract was entered into.

''(C) Any changes from a major system schedule milestones or performances that are known, expected, or anticipated by the program manager.

''(D) Any significant changes in the total acquisition cost for development and procurement of any software component of the major system, schedule milestones for such software component of the major system, or expected performance of such software component of the major system that are known, expected, or anticipated by the program manager.

''(3) Each major system cost report required by paragraph (1) shall be submitted not more than 30 days after the end of the reporting quarter.

''(c) REPORTS FOR BREACH OF SIGNIFICANT OR CRITICAL COST GROWTH THRESHOLDS.—If the program manager of a major system for which a report has previously been submitted under subsection (b) determines at any time during a quarter that there is reasonable cause to believe that the total acquisition cost for the major system has increased by a percentage equal to or greater than the significant cost growth threshold or critical cost growth threshold and if a report indicating an increase of such percentage or more has not previously been submitted to the Director, then the program manager shall immediately submit to the Director a major system cost report containing the information, determined as of the date of the report, required under subsection (b).

''(d) NOTIFICATION TO CONGRESS OF COST GROWTH.—(1) Whenever a major system cost report is submitted to the Director, the Director shall determine whether the current acquisition cost for the major system has increased by a percentage equal to or greater than the significant cost growth threshold or the critical cost growth threshold.

''(2) If the Director determines that the current total acquisition cost has increased by a percentage equal to or greater than the significant cost growth threshold or critical cost growth threshold, the Director shall submit to Congress a Major System Congressional Report pursuant to subsection (e).

''(e) REQUIREMENT FOR MAJOR SYSTEM CONGRESSIONAL REPORT.—(1) Whenever the Director determines under subsection (d) that the total acquisition cost of a major system has increased by a percentage equal to or greater than the significant cost growth threshold for the major system, a Major System Congressional Report shall be submitted to Congress not later than 45 days after the date on which the Director receives the major system cost report for such major system.

''(2) If the total acquisition cost of a major system (as determined by the Director under subsection (d)) increases by a percentage equal to or greater than the critical cost growth threshold for the program or subprogram, the Director shall take actions consistent with the requirements of section 506F.

''(f) MAJOR SYSTEM CONGRESSIONAL REPORT ELEMENTS.—(1) Except as provided in paragraph (2), each Major System Congressional Report shall include the following:

''(A) The name of the major system.

''(B) The date of the preparation of the report.

''(C) The program phase of the major system as of the date of the preparation of the report.

''(D) The estimate of the total acquisition cost for the major system expressed in constant base-year dollars and in current dollars.

''(E) The current Baseline Estimate for the major system in constant base-year dollars and in current dollars.

''(F) A statement of the reasons for any increase in total acquisition cost for the major system.

''(G) The completion status of the major system—

''(i) expressed as the percentage that the number of years for which funds have been appropriated for the major system is of the number of years for which it is planned that funds will be appropriated for the major system; and

''(ii) expressed as the percentage that the amount of funds that have been appropriated for the major system is of the total amount of funds which it is planned will be appropriated for the major system.

''(H) The fiscal year in which the major system was first authorized and in which funds for such system were first appropriated by Congress.

''(I) The current change and the total change, in dollars and expressed as a percentage, in the total acquisition cost for the major system, stated both in constant base-year dollars and in current dollars.

''(J) The quantity of end items to be acquired under the major system and the current change and total change, if any, in that quantity.

''(K) The identities of the officers responsible for management and cost control of the major system.

''(L) The action taken and proposed to be taken to control future cost growth of the major system.

''(M) Any changes made in the performance or schedule milestones of the major system and the extent to which such changes have contributed to the increase in total acquisition cost for the major system.

''(N) The following contract performance assessment information with respect to each major contract under the major system:

''(i) The name of the contractor.

''(ii) The phase that the contract is in at the time of the preparation of the report.

''(iii) The percentage of work under the contract that has been completed.

''(iv) Any current change and the total change, in dollars and expressed as a percentage, in the contract cost.

''(v) The percentage by which the contract is currently ahead of or behind schedule.

''(vi) A narrative providing a summary explanation of the most significant occurrences, including cost and schedule variances under major contracts of the major system, contributing to the changes identified and a discussion of the effect these occurrences will have on the future costs and schedule of the major system.

''(O) In any case in which one or more problems with a software component of the major system significantly contributed to the increase in costs of the major system, the action taken and proposed to be taken to solve such problems.

''(2) A Major System Congressional Report prepared for a major system for which the increase in the total acquisition cost is due to termination or cancellation of the entire major system shall include only—

''(A) the information described in subparagraphs (A) through (F) of paragraph (1); and

''(B) the total percentage change in total acquisition cost for such system.

''(g) PROHIBITION ON OBLIGATION OF FUNDS.—If a determination of an increase by a percentage equal to or greater than the significant cost growth threshold is made by the Director under subsection (d) and a Major System Congressional Report containing the information described in subsection (f) is not submitted to Congress under subsection (e)(1), or if a determination of an increase by a percentage equal to or greater than the critical cost growth threshold is made by the Director under subsection (d) and the Major System Congressional Report containing the information described in subsection (f) and section 506F(b)(3) and the certification required by section 506F(b)(2) are not submitted to Congress under subsection (e)(2), funds appropriated for construction, research, development, test, evaluation, and procurement may not be obligated for a major contract under the major system. The prohibition on the obligation of funds for a major system shall cease to apply at the end of the 45-day period that begins on the date—

''(1) on which Congress receives the Major System Congressional Report under subsection (e)(1) with respect to that major system, in the case of a determination of an increase by a percentage equal to or greater than the significant cost growth threshold (as determined in subsection (d)); or

''(2) on which Congress receives both the Major System Congressional Report under subsection (e)(2) and the certification of the Director under section 506F(b)(2) with respect to that major system, in the case of an increase by a percentage equal to or greater than the critical cost growth threshold (as determined under subsection (d)).

''(h) TREATMENT OF COST INCREASES PRIOR TO ENACTMENT OF INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2010.—(1) Not later than 180 days after the date of the enactment of the Intelligence Authorization Act for Fiscal Year 2010, the Director—

''(A) shall, for each major system, determine if the total acquisition cost of such major system increased by a percentage equal to or greater than the significant cost growth threshold or the critical cost growth threshold prior to such date of enactment;

''(B) shall establish for each major system for which the total acquisition cost has increased by a percentage equal to or greater than the significant cost growth threshold or the critical cost growth threshold prior to such date of enactment a revised current Baseline Estimate based upon an updated cost estimate;

''(C) may, for a major system not described in subparagraph (B), establish a revised current Baseline Estimate based upon an updated cost estimate; and

''(D) shall submit to Congress a report describing—

''(i) each determination made under subparagraph (A);

''(ii) each revised current Baseline Estimate established for a major system under subparagraph (B); and

''(iii) each revised current Baseline Estimate established for a major system under subparagraph (C), including the percentage increase of the total acquisition cost of such major system that occurred prior to the date of the enactment of such Act.

''(2) The revised current Baseline Estimate established for a major system under subparagraph (B) or (C) of paragraph (1) shall be the 2010 adjusted total acquisition cost for the major system and may include the estimated cost of conducting any vulnerability assessments for such major system required under section 506C.

''(i) REQUIREMENTS TO USE BASE YEAR DOLLARS.—Any determination of a percentage increase under this section shall be stated in terms of constant base year dollars.

''(j) FORM OF REPORT.—Any report required to be submitted under this section may be submitted in a classified form.''.

(2) APPLICABILITY DATE OF QUARTERLY REPORTS.—The first report required to be submitted under subsection (b) of section 506E of the National security Act of 1947, as added by paragraph (1) of this subsection, shall be submitted with respect to the first fiscal quarter that begins on a date that is not less than 180 days after the date of the enactment of this Act.

(3) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of that Act, as amended by section 322 of this Act, is further amended by inserting after the item relating to section 506D, as added by section 322(a)(2), the following new item:

''Sec. 506E. Reports on the acquisition of major systems.''.

(b) MAJOR DEFENSE ACQUISITION PROGRAMS.—Nothing in this section, section 324, or an amendment made by this section or section 324, shall be construed to exempt an acquisition program of the Department of Defense from the requirements of chapter 144 of title 10, United States Code or Department of Defense Directive 5000, to the extent that such requirements are otherwise applicable.

SEC. 324. CRITICAL COST GROWTH IN MAJOR SYSTEMS.

(a) IN GENERAL.—Title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.), as amended by section 323 of this Act, is further amended by inserting after section 506E, as added by section 323(a), the following new section:

''CRITICAL COST GROWTH IN MAJOR SYSTEMS

''SEC. 506F. (a) REASSESSMENT OF MAJOR SYSTEM.—If the Director of National Intelligence determines under section 506E(d) that the total acquisition cost of a major system has increased by a percentage equal to or greater than the critical cost growth threshold for the major system, the Director shall—

''(1) determine the root cause or causes of the critical cost growth, in accordance with

applicable statutory requirements, policies, procedures, and guidance; and

''(2) carry out an assessment of—

''(A) the projected cost of completing the major system if current requirements are not modified;

''(B) the projected cost of completing the major system based on reasonable modification of such requirements;

''(C) the rough order of magnitude of the costs of any reasonable alternative system or capability; and

''(D) the need to reduce funding for other systems due to the growth in cost of the major system.

''(b) PRESUMPTION OF TERMINATION.—(1) After conducting the reassessment required by subsection (a) with respect to a major system, the Director shall terminate the major system unless the Director submits to Congress a Major System Congressional Report containing a certification in accordance with paragraph (2) and the information described in paragraph (3). The Director shall submit such Major System Congressional Report and certification not later than 90 days after the date the Director receives the relevant major system cost report under subsection (b) or (c) of section 506E.

''(2) A certification described by this paragraph with respect to a major system is a written certification that—

''(A) the continuation of the major system is essential to the national security;

''(B) there are no alternatives to the major system that will provide acceptable capability to meet the intelligence requirement at less cost;

''(C) the new estimates of the total acquisition cost have been determined by the Director to be reasonable;

''(D) the major system is a higher priority than other systems whose funding must be reduced to accommodate the growth in cost of the major system; and

''(E) the management structure for the major system is adequate to manage and control the total acquisition cost.

''(3) A Major System Congressional Report accompanying a written certification under paragraph (2) shall include, in addition to the requirements of section 506E(e), the root cause analysis and assessment carried out pursuant to subsection (a), the basis for each determination made in accordance with subparagraphs (A) through (E) of paragraph (2), and a description of all funding changes made as a result of the growth in the cost of the major system, including reductions made in funding for other systems to accommodate such cost growth, together with supporting documentation.

''(c) ACTIONS IF MAJOR SYSTEM NOT TERMINATED.—If the Director elects not to terminate a major system pursuant to subsection (b), the Director shall—

''(1) restructure the major system in a manner that addresses the root cause or causes of the critical cost growth, as identified pursuant to subsection (a), and ensures that the system has an appropriate management structure as set forth in the certification submitted pursuant to subsection (b)(2)(E);

''(2) rescind the most recent Milestone approval for the major system;

''(3) require a new Milestone approval for the major system before taking any action to enter a new contract, exercise an option under an existing contract, or otherwise extend the scope of an existing contract under the system, except to the extent determined necessary by the Milestone Decision Authority, on a nondelegable basis, to ensure that the system may be restructured as intended by the Director without unnecessarily wasting resources;

''(4) establish a revised current Baseline Estimate for the major system based upon an updated cost estimate; and

''(5) conduct regular reviews of the major system.

''(d) ACTIONS IF MAJOR SYSTEM TERMINATED.—If a major system is terminated pursuant to subsection (b), the Director shall submit to Congress a written report setting forth—

''(1) an explanation of the reasons for terminating the major system;

''(2) the alternatives considered to address any problems in the major system; and

''(3) the course the Director plans to pursue to meet any intelligence requirements otherwise intended to be met by the major system.

''(e) FORM OF REPORT.—Any report or certification required to be submitted under this section may be submitted in a classified form.

''(f) WAIVER.—(1) The Director may waive the requirements of subsections (d)(2), (e), and (g) of section 506E and subsections (a)(2), (b), (c), and (d) of this section with respect to a major system if the Director determines that at least 90 percent of the amount of the current Baseline Estimate for the major system has been expended.

''(2)(A) If the Director grants a waiver under paragraph (1) with respect to a major system, the Director shall submit to the congressional intelligence committees written notice of the waiver that includes—

''(i) the information described in section 506E(f); and

''(ii) if the current total acquisition cost of the major system has increased by a percentage equal to or greater than the critical cost growth threshold—

''(I) a determination of the root cause or causes of the critical cost growth, as described in subsection (a)(1); and

''(II) a certification that includes the elements described in subparagraphs (A), (B), and (E) of subsection (b)(2).

''(B) The Director shall submit the written notice required by subparagraph (A) not later than 90 days after the date that the Director receives a major system cost report under subsection (b) or (c) of section 506E that indicates that the total acquisition cost for the major system has increased by a percentage equal to or greater than the significant cost growth threshold or critical cost growth threshold.

''(g) DEFINITIONS.—In this section, the terms 'cost estimate', 'critical cost growth threshold', 'current Baseline Estimate', 'major system', and 'total acquisition cost' have the meaning given those terms in section 506E(a).''.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of that Act, as amended by section 323 of this Act, is further amended by inserting after the items relating to section 506E, as added by section 323(a)(3), the following new item:

''Sec. 506F. Critical cost growth in major systems.''.

SEC. 325. FUTURE BUDGET PROJECTIONS.

(a) IN GENERAL.—Title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.), as amended by section 324 of this Act, is further amended by inserting after section 506F, as added by section 324(a), the following new section:

''FUTURE BUDGET PROJECTIONS

''SEC. 506G. (a) FUTURE YEAR INTELLIGENCE PLANS.—(1) The Director of National Intelligence, with the concurrence of the Director of the Office of Management and Budget, shall provide to the congressional intelligence committees a Future Year Intelligence Plan, as described in paragraph (2), for—

''(A) each expenditure center in the National Intelligence Program; and

''(B) each major system in the National Intelligence Program.

''(2)(A) A Future Year Intelligence Plan submitted under this subsection shall include the year-by-year proposed funding for each center or system referred to in subparagraph (A) or (B) of paragraph (1), for the budget year for which the Plan is submitted and not less than the 4 subsequent fiscal years.

''(B) A Future Year Intelligence Plan submitted under subparagraph (B) of paragraph (1) for a major system shall include—

''(i) the estimated total life-cycle cost of such major system; and

''(ii) major milestones that have significant resource implications for such major system.

''(b) LONG-TERM BUDGET PROJECTIONS.—(1) The Director of National Intelligence, with the concurrence of the Director of the Office of Management and Budget, shall provide to the congressional intelligence committees a Long-term Budget Projection for each element of the intelligence community funded under the National Intelligence Program acquiring a major system that includes the budget for such element for the 5-year period that begins on the day after the end of the last fiscal year for which year-by-year proposed funding is included in a Future Year Intelligence Plan for such major system in accordance with subsection (a)(2)(A).

''(2) A Long-term Budget Projection submitted under paragraph (1) shall include—

''(A) projections for the appropriate element of the intelligence community for—

''(i) pay and benefits of officers and employees of such element;

''(ii) other operating and support costs and minor acquisitions of such element;

''(iii) research and technology required by such element;

''(iv) current and planned major system acquisitions for such element;

''(v) any future major system acquisitions for such element; and

''(vi) any additional funding projections that the Director of National Intelligence considers appropriate;

''(B) a budget projection based on effective cost and schedule execution of current or planned major system acquisitions and application of Office of Management and Budget inflation estimates to future major system acquisitions;

''(C) any additional assumptions and projections that the Director of National Intelligence considers appropriate; and

''(D) a description of whether, and to what extent, the total projection for each year exceeds the level that would result from applying the most recent Office of Management and Budget inflation estimate to the budget of that element of the intelligence community.

''(c) SUBMISSION TO CONGRESS.—The Director of National Intelligence, with the concurrence of the Director of the Office of Management and Budget, shall submit to the congressional intelligence committees each Future Year Intelligence Plan or Long-term Budget Projection required under subsection (a) or (b) for a fiscal year at the time that the President submits to Congress the budget for such fiscal year pursuant section 1105 of title 31, United States Code.

''(d) MAJOR SYSTEM AFFORDABILITY REPORT.—(1) The Director of National Intelligence, with the concurrence of the Director of the Office of Management and Budget, shall prepare a report on the acquisition of a major system funded under the National Intelligence Program before the time that the President submits to Congress the budget for the first fiscal year in which appropriated

funds are anticipated to be obligated for the development or procurement of such major system.

''(2) The report on such major system shall include an assessment of whether, and to what extent, such acquisition, if developed, procured, and operated, is projected to cause an increase in the most recent Future Year Intelligence Plan and Long-term Budget Projection submitted under section 506G for an element of the intelligence community.

''(3) The Director of National Intelligence shall update the report whenever an independent cost estimate must be updated pursuant to section 506A(a)(4).

''(4) The Director of National Intelligence shall submit each report required by this subsection at the time that the President submits to Congress the budget for a fiscal year pursuant to section 1105 of title 31, United States Code.

''(e) DEFINITIONS.—In this section:

''(1) BUDGET YEAR.—The term 'budget year' means the next fiscal year for which the President is required to submit to Congress a budget pursuant to section 1105 of title 31, United States Code.

''(2) INDEPENDENT COST ESTIMATE; MAJOR SYSTEM.—The terms 'independent cost estimate' and 'major system' have the meaning given those terms in section 506A(e).''.

(b) APPLICABILITY DATE.—The first Future Year Intelligence Plan and Long-term Budget Projection required to be submitted under subsection (a) and (b) of section 506G of the National Security Act of 1947, as added by subsection (a), shall be submitted to the congressional intelligence committees at the time that the President submits to Congress the budget for fiscal year 2012 pursuant to section 1105 of title 31, United States Code.

(c) CONFORMING AMENDMENTS.—

(1) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of that Act, as amended by section 324 of this Act, is further amended by inserting after the items relating to section 506F, as added by section 324(b), the following new item:

''Sec. 506G. Future budget projections.''.

(2) REPEAL OF DUPLICATIVE PROVISION.—Section 8104 of the Department of Defense Appropriations Act, 2010 (50 U.S.C. 415a–3; Public Law 111–118; 123 Stat. 3451) is repealed.

SEC. 326. NATIONAL INTELLIGENCE PROGRAM FUNDED ACQUISITIONS.

Subsection (n) of section 102A of the National Security Act of 1947 (50 U.S.C. 403–1) is amended by adding at the end the following new paragraph:

''(4)(A) In addition to the authority referred to in paragraph (1), the Director of National Intelligence may authorize the head of an element of the intelligence community to exercise an acquisition authority referred to in section 3 or 8(a) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403c and 403j(a)) for an acquisition by such element that is more than 50 percent funded under the National Intelligence Program.

''(B) The head of an element of the intelligence community may not exercise an authority referred to in subparagraph (A) until—

''(i) the head of such element (without delegation) submits to the Director of National Intelligence a written request that includes—

''(I) a description of such authority requested to be exercised;

''(II) an explanation of the need for such authority, including an explanation of the reasons that other authorities are insufficient; and

''(III) a certification that the mission of such element would be—

''(aa) impaired if such authority is not exercised; or

''(bb) significantly and measurably enhanced if such authority is exercised; and

''(ii) the Director of National Intelligence issues a written authorization that includes—

''(I) a description of the authority referred to in subparagraph (A) that is authorized to be exercised; and

''(II) a justification to support the exercise of such authority.

''(C) A request and authorization to exercise an authority referred to in subparagraph (A) may be made with respect to an individual acquisition or with respect to a specific class of acquisitions described in the request and authorization referred to in subparagraph (B).

''(D)(i) A request from a head of an element of the intelligence community located within one of the departments described in clause (ii) to exercise an authority referred to in subparagraph (A) shall be submitted to the Director of National Intelligence in accordance with any procedures established by the head of such department.

''(ii) The departments described in this clause are the Department of Defense, the Department of Energy, the Department of Homeland Security, the Department of Justice, the Department of State, and the Department of the Treasury.

''(E)(i) The head of an element of the intelligence community may not be authorized to utilize an authority referred to in subparagraph (A) for a class of acquisitions for a period of more than 3 years, except that the Director of National Intelligence (without delegation) may authorize the use of such an authority for not more than 6 years.

''(ii) Each authorization to utilize an authority referred to in subparagraph (A) may be extended in accordance with the requirements of subparagraph (B) for successive periods of not more than 3 years, except that the Director of National Intelligence (without delegation) may authorize an extension period of not more than 6 years.

''(F) Subject to clauses (i) and (ii) of subparagraph (E), the Director of National Intelligence may only delegate the authority of the Director under subparagraphs (A) through (E) to the Principal Deputy Director of National Intelligence or a Deputy Director of National Intelligence.

''(G) The Director of National Intelligence shall submit—

''(i) to the congressional intelligence committees a notification of an authorization to exercise an authority referred to in subparagraph (A) or an extension of such authorization that includes the written authorization referred to in subparagraph (B)(ii); and

''(ii) to the Director of the Office of Management and Budget a notification of an authorization to exercise an authority referred to in subparagraph (A) for an acquisition or class of acquisitions that will exceed $50,000,000 annually.

''(H) Requests and authorizations to exercise an authority referred to in subparagraph (A) shall remain available within the Office of the Director of National Intelligence for a period of at least 6 years following the date of such request or authorization.

''(I) Nothing in this paragraph may be construed to alter or otherwise limit the authority of the Central Intelligence Agency to independently exercise an authority under section 3 or 8(a) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403c and 403j(a)).''.

Subtitle D—Congressional Oversight, Plans, and Reports

SEC. 331. NOTIFICATION PROCEDURES.

(a) PROCEDURES.—Section 501(c) of the National Security Act of 1947 (50 U.S.C. 413(c)) is amended by striking ''such procedures'' and inserting ''such written procedures''.

(b) INTELLIGENCE ACTIVITIES.—Section 502(a)(2) of such Act (50 U.S.C. 413a(a)(2)) is amended by inserting ''(including the legal basis under which the intelligence activity is being or was conducted)'' after ''concerning intelligence activities''.

(c) COVERT ACTIONS.—Section 503 of such Act (50 U.S.C. 413b) is amended—

(1) in subsection (b)(2), by inserting ''(including the legal basis under which the covert action is being or was conducted)'' after ''concerning covert actions'';

(2) in subsection (c)—

(A) in paragraph (1), by inserting ''in writing'' after ''be reported'';

(B) in paragraph (4), by striking ''committee. When'' and inserting the following: ''committee.

''(5)(A) When''; and

(C) in paragraph (5), as designated by subparagraph (B)—

(i) in subparagraph (A), as so designated—

(I) by inserting '', or a notification provided under subsection (d)(1),'' after ''access to a finding'';

(II) by inserting ''written'' before ''statement''; and

(ii) by adding at the end the following new subparagraph:

''(B) Not later than 180 days after a statement of reasons is submitted in accordance with subparagraph (A) or this subparagraph, the President shall ensure that—

''(i) all members of the congressional intelligence committees are provided access to the finding or notification; or

''(ii) a statement of reasons that it is essential to continue to limit access to such finding or such notification to meet extraordinary circumstances affecting vital interests of the United States is submitted to the Members of Congress specified in paragraph (2).'';

(3) in subsection (d)—

(A) by striking ''(d) The President'' and inserting ''(d)(1) The President'';

(B) in paragraph (1), as designated by subparagraph (A), by inserting ''in writing'' after ''notified''; and

(C) by adding at the end the following new paragraph:

''(2) In determining whether an activity constitutes a significant undertaking for purposes of paragraph (1), the President shall consider whether the activity—

''(A) involves significant risk of loss of life;

''(B) requires an expansion of existing authorities, including authorities relating to research, development, or operations;

''(C) results in the expenditure of significant funds or other resources;

''(D) requires notification under section 504;

''(E) gives rise to a significant risk of disclosing intelligence sources or methods; or

''(F) presents a reasonably foreseeable risk of serious damage to the diplomatic relations of the United States if such activity were disclosed without authorization.''; and

(4) by adding at the end the following new subsection:

''(g)(1) In any case where access to a finding reported under subsection (c) or notification provided under subsection (d)(1) is not made available to all members of a congressional intelligence committee in accordance with subsection (c)(2), the President shall notify all members of such committee that such finding or such notification has been provided only to the members specified in subsection (c)(2).

''(2) In any case where access to a finding reported under subsection (c) or notification provided under subsection (d)(1) is not made available to all members of a congressional intelligence committee in accordance with subsection (c)(2), the President shall provide to all members of such committee a general

description regarding the finding or notification, as applicable, consistent with the reasons for not yet fully informing all members of such committee.

''(3) The President shall maintain—

''(A) a record of the members of Congress to whom a finding is reported under subsection (c) or notification is provided under subsection (d)(1) and the date on which each member of Congress receives such finding or notification; and

''(B) each written statement provided under subsection (c)(5).''.

SEC. 332. CERTIFICATION OF COMPLIANCE WITH OVERSIGHT REQUIREMENTS.

(a) IN GENERAL.—Title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.), as amended by section 325 of this Act, is further amended by adding at the end the following new section:

''CERTIFICATION OF COMPLIANCE WITH OVERSIGHT REQUIREMENTS

''SEC. 508. The head of each element of the intelligence community shall annually submit to the congressional intelligence committees—

''(1) a certification that, to the best of the knowledge of the head of such element—

''(A) the head of such element is in full compliance with the requirements of this title; and

''(B) any information required to be submitted by the head of such element under this Act before the date of the submission of such certification has been properly submitted; or

''(2) if the head of such element is unable to submit a certification under paragraph (1), a statement—

''(A) of the reasons the head of such element is unable to submit such a certification;

''(B) describing any information required to be submitted by the head of such element under this Act before the date of the submission of such statement that has not been properly submitted; and

''(C) that the head of such element will submit such information as soon as possible after the submission of such statement.''.

(b) APPLICABILITY DATE.—The first certification or statement required to be submitted by the head of each element of the intelligence community under section 508 of the National Security Act of 1947, as added by subsection (a), shall be submitted not later than 90 days after the date of the enactment of this Act.

(c) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of the National Security Act of 1947, as amended by section 325 of this Act, is further amended by inserting after the item related to section 507 the following new item:

''Sec. 508. Certification of compliance with oversight requirements.''.

SEC. 333. REPORT ON DETENTION AND INTERROGATION ACTIVITIES.

(a) REQUIREMENT FOR REPORT.—Not later than December 1, 2010, the Director of National Intelligence, in coordination with the Attorney General and the Secretary of Defense, shall submit to the congressional intelligence committees a comprehensive report containing—

(1) the policies and procedures of the United States Government governing participation by an element of the intelligence community in the interrogation of individuals detained by the United States who are suspected of international terrorism with the objective, in whole or in part, of acquiring national intelligence, including such policies and procedures of each appropriate element of the intelligence community or interagency body established to carry out interrogations;

(2) the policies and procedures relating to any detention by the Central Intelligence Agency of such individuals in accordance with Executive Order 13491;

(3) the legal basis for the policies and procedures referred to in paragraphs (1) and (2);

(4) the training and research to support the policies and procedures referred to in paragraphs (1) and (2); and

(5) any action that has been taken to implement section 1004 of the Detainee Treatment Act of 2005 (42 U.S.C. 2000dd–1).

(b) OTHER SUBMISSION OF REPORT.—

(1) CONGRESSIONAL ARMED SERVICES COMMITTEES.—To the extent that the report required by subsection (a) addresses an element of the intelligence community within the Department of Defense, the Director of National Intelligence, in consultation with the Secretary of Defense, shall submit that portion of the report, and any associated material that is necessary to make that portion understandable, to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives. The Director of National Intelligence may authorize redactions of the report and any associated materials submitted pursuant to this paragraph, if such redactions are consistent with the protection of sensitive intelligence sources and methods.

(2) CONGRESSIONAL JUDICIARY COMMITTEES.—To the extent that the report required by subsection (a) addresses an element of the intelligence community within the Department of Justice, the Director of National Intelligence, in consultation with the Attorney General, shall submit that portion of the report, and any associated material that is necessary to make that portion understandable, to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives. The Director of National Intelligence may authorize redactions of the report and any associated materials submitted pursuant to this paragraph, if such redactions are consistent with the protection of sensitive intelligence sources and methods.

(c) FORM OF SUBMISSIONS.—Any submission required under this section may be submitted in classified form.

SEC. 334. SUMMARY OF INTELLIGENCE RELATING TO TERRORIST RECIDIVISM OF DETAINEES HELD AT UNITED STATES NAVAL STATION, GUANTANAMO BAY, CUBA.

Not later than 60 days after the date of the enactment of this Act, the Director of National Intelligence, in consultation with the Director of the Central Intelligence Agency and the Director of the Defense Intelligence Agency, shall make publicly available an unclassified summary of—

(1) intelligence relating to recidivism of detainees currently or formerly held at the Naval Detention Facility at Guantanamo Bay, Cuba, by the Department of Defense; and

(2) an assessment of the likelihood that such detainees will engage in terrorism or communicate with persons in terrorist organizations.

SEC. 335. REPORT AND STRATEGIC PLAN ON BIOLOGICAL WEAPONS.

(a) REQUIREMENT FOR REPORT.—Not later than 180 days after the date of the enactment of this Act, the Director of National Intelligence shall submit to the congressional intelligence committees a report on—

(1) the intelligence collection efforts of the United States dedicated to assessing the threat from biological weapons from state, nonstate, or rogue actors, either foreign or domestic; and

(2) efforts to protect the biodefense knowledge and infrastructure of the United States.

(b) CONTENT.—The report required by subsection (a) shall include—

(1) an assessment of the intelligence collection efforts of the United States dedicated to detecting the development or use of biological weapons by state, nonstate, or rogue actors, either foreign or domestic;

(2) information on fiscal, human, technical, open-source, and other intelligence collection resources of the United States dedicated for use to detect or protect against the threat of biological weapons;

(3) an assessment of any problems that may reduce the overall effectiveness of United States intelligence collection and analysis to identify and protect biological weapons targets, including—

(A) intelligence collection gaps or inefficiencies;

(B) inadequate information sharing practices; or

(C) inadequate cooperation among departments or agencies of the United States;

(4) a strategic plan prepared by the Director of National Intelligence, in coordination with the Attorney General, the Secretary of Defense, and the Secretary of Homeland Security, that provides for actions for the appropriate elements of the intelligence community to close important intelligence gaps related to biological weapons;

(5) a description of appropriate goals, schedules, milestones, or metrics to measure the long-term effectiveness of actions implemented to carry out the plan described in paragraph (4); and

(6) any long-term resource and human capital issues related to the collection of intelligence regarding biological weapons, including any recommendations to address shortfalls of experienced and qualified staff possessing relevant scientific, language, and technical skills.

(c) IMPLEMENTATION OF STRATEGIC PLAN.—Not later than 30 days after the date on which the Director of National Intelligence submits the report required by subsection (a), the Director shall begin implementation of the strategic plan referred to in subsection (b)(4).

SEC. 336. CYBERSECURITY OVERSIGHT.

(a) NOTIFICATION OF CYBERSECURITY PROGRAMS.—

(1) REQUIREMENT FOR NOTIFICATION.—

(A) EXISTING PROGRAMS.—Not later than 30 days after the date of the enactment of this Act, the President shall submit to Congress a notification for each cybersecurity program in operation on such date that includes the documentation referred to in subparagraphs (A) through (F) of paragraph (2).

(B) NEW PROGRAMS.—Not later than 30 days after the date of the commencement of operations of a new cybersecurity program, the President shall submit to Congress a notification of such commencement that includes the documentation referred to in subparagraphs (A) through (F) of paragraph (2).

(2) DOCUMENTATION.—A notification required by paragraph (1) for a cybersecurity program shall include—

(A) the legal basis for the cybersecurity program;

(B) the certification, if any, made pursuant to section 2511(2)(a)(ii)(B) of title 18, United States Code, or other statutory certification of legality for the cybersecurity program;

(C) the concept for the operation of the cybersecurity program that is approved by the head of the appropriate department or agency of the United States;

(D) the assessment, if any, of the privacy impact of the cybersecurity program prepared by the privacy or civil liberties protection officer or comparable officer of such department or agency;

(E) the plan, if any, for independent audit or review of the cybersecurity program to be carried out by the head of such department

or agency, in conjunction with the appropriate inspector general; and

(F) recommendations, if any, for legislation to improve the capabilities of the United States Government to protect the cybersecurity of the United States.

(b) PROGRAM REPORTS.—

(1) REQUIREMENT FOR REPORTS.—The head of a department or agency of the United States with responsibility for a cybersecurity program for which a notification was submitted under subsection (a), in consultation with the inspector general for that department or agency, shall submit to Congress and the President a report on such cybersecurity program that includes—

(A) the results of any audit or review of the cybersecurity program carried out under the plan referred to in subsection (a)(2)(E), if any; and

(B) an assessment of whether the implementation of the cybersecurity program—

(i) is in compliance with—

(I) the legal basis referred to in subsection (a)(2)(A); and

(II) an assessment referred to in subsection (a)(2)(D), if any;

(ii) is adequately described by the concept of operation referred to in subsection (a)(2)(C); and

(iii) includes an adequate independent audit or review system and whether improvements to such independent audit or review system are necessary.

(2) SCHEDULE FOR SUBMISSION OF REPORTS.—

(A) EXISTING PROGRAMS.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the head of a department or agency of the United States with responsibility for a cybersecurity program for which a notification is required to be submitted under subsection (a)(1)(A) shall submit a report required under paragraph (1).

(B) NEW PROGRAMS.—Not later than 120 days after the date on which a certification is submitted under subsection (a)(1)(B), and annually thereafter, the head of a department or agency of the United States with responsibility for the cybersecurity program for which such certification is submitted shall submit a report required under paragraph (1).

(3) COOPERATION AND COORDINATION.—

(A) COOPERATION.—The head of each department or agency of the United States required to submit a report under paragraph (1) for a particular cybersecurity program, and the inspector general of each such department or agency, shall, to the extent practicable, work in conjunction with any other such head or inspector general required to submit such a report for such cybersecurity program.

(B) COORDINATION.—The heads of all of the departments and agencies of the United States required to submit a report under paragraph (1) for a particular cybersecurity program shall designate one such head to coordinate the conduct of the reports on such program.

(c) INFORMATION SHARING REPORT.—Not later than one year after the date of the enactment of this Act, the Inspector General of the Department of Homeland Security and the Inspector General of the Intelligence Community shall jointly submit to Congress and the President a report on the status of the sharing of cyber-threat information, including—

(1) a description of how cyber-threat intelligence information, including classified information, is shared among the agencies and departments of the United States and with persons responsible for critical infrastructure;

(2) a description of the mechanisms by which classified cyber-threat information is distributed;

(3) an assessment of the effectiveness of cyber-threat information sharing and distribution; and

(4) any other matters identified by either Inspector General that would help to fully inform Congress or the President regarding the effectiveness and legality of cybersecurity programs.

(d) PERSONNEL DETAILS.—

(1) AUTHORITY TO DETAIL.—Notwithstanding any other provision of law, the head of an element of the intelligence community that is funded through the National Intelligence Program may detail an officer or employee of such element to the National Cyber Investigative Joint Task Force or to the Department of Homeland Security to assist the Task Force or the Department with cybersecurity, as jointly agreed by the head of such element and the Task Force or the Department.

(2) BASIS FOR DETAIL.—A personnel detail made under paragraph (1) may be made—

(A) for a period of not more than three years; and

(B) on a reimbursable or nonreimbursable basis.

(e) ADDITIONAL PLAN.—Not later than 180 days after the date of the enactment of this Act, the Director of National Intelligence shall submit to Congress a plan for recruiting, retaining, and training a highly-qualified cybersecurity intelligence community workforce to secure the networks of the intelligence community. Such plan shall include—

(1) an assessment of the capabilities of the current workforce;

(2) an examination of issues of recruiting, retention, and the professional development of such workforce, including the possibility of providing retention bonuses or other forms of compensation;

(3) an assessment of the benefits of outreach and training with both private industry and academic institutions with respect to such workforce;

(4) an assessment of the impact of the establishment of the Department of Defense Cyber Command on such workforce;

(5) an examination of best practices for making the intelligence community workforce aware of cybersecurity best practices and principles; and

(6) strategies for addressing such other matters as the Director of National Intelligence considers necessary to the cybersecurity of the intelligence community.

(f) REPORT ON GUIDELINES AND LEGISLATION TO IMPROVE CYBERSECURITY OF THE UNITED STATES.—

(1) INITIAL.—Not later than one year after the date of the enactment of this Act, the Director of National Intelligence, in coordination with the Attorney General, the Director of the National Security Agency, the White House Cybersecurity Coordinator, and any other officials the Director of National Intelligence considers appropriate, shall submit to Congress a report containing guidelines or legislative recommendations, if appropriate, to improve the capabilities of the intelligence community and law enforcement agencies to protect the cybersecurity of the United States. Such report shall include guidelines or legislative recommendations on—

(A) improving the ability of the intelligence community to detect hostile actions and attribute attacks to specific parties;

(B) the need for data retention requirements to assist the intelligence community and law enforcement agencies;

(C) improving the ability of the intelligence community to anticipate nontraditional targets of foreign intelligence services; and

(D) the adequacy of existing criminal statutes to successfully deter cyber attacks, including statutes criminalizing the facilitation of criminal acts, the scope of laws for which a cyber crime constitutes a predicate offense, trespassing statutes, data breach notification requirements, and victim restitution statutes.

(2) SUBSEQUENT.—Not later than one year after the date on which the initial report is submitted under paragraph (1), and annually thereafter for two years, the Director of National Intelligence, in consultation with the Attorney General, the Director of the National Security Agency, the White House Cybersecurity Coordinator, and any other officials the Director of National Intelligence considers appropriate, shall submit to Congress an update of the report required under paragraph (1).

(g) SUNSET.—The requirements and authorities of subsections (a) through (e) shall terminate on December 31, 2013.

(h) DEFINITIONS.—In this section:

(1) CYBERSECURITY PROGRAM.—The term ''cybersecurity program'' means a class or collection of similar cybersecurity operations of a department or agency of the United States that involves personally identifiable data that is—

(A) screened by a cybersecurity system outside of the department or agency of the United States that was the intended recipient of the personally identifiable data;

(B) transferred, for the purpose of cybersecurity, outside the department or agency of the United States that was the intended recipient of the personally identifiable data; or

(C) transferred, for the purpose of cybersecurity, to an element of the intelligence community.

(2) NATIONAL CYBER INVESTIGATIVE JOINT TASK FORCE.—The term ''National Cyber Investigative Joint Task Force'' means the multiagency cyber investigation coordination organization overseen by the Director of the Federal Bureau of Investigation known as the National Cyber Investigative Joint Task Force that coordinates, integrates, and provides pertinent information related to cybersecurity investigations.

(3) CRITICAL INFRASTRUCTURE.—The term ''critical infrastructure'' has the meaning given that term in section 1016 of the USA PATRIOT Act (42 U.S.C. 5195c).

SEC. 337. REPORT ON FOREIGN LANGUAGE PROFICIENCY IN THE INTELLIGENCE COMMUNITY.

(a) REPORT.—Not later than one year after the date of the enactment of this Act, and biennially thereafter for four years, the Director of National Intelligence shall submit to the congressional intelligence committees and the Committees on Armed Services of the House of Representatives and the Senate a report on the proficiency in foreign languages and, as appropriate, in foreign dialects, of each element of the intelligence community, including—

(1) the number of positions authorized for such element that require foreign language proficiency and a description of the level of proficiency required;

(2) an estimate of the number of such positions that such element will require during the five-year period beginning on the date of the submission of the report;

(3) the number of positions authorized for such element that require foreign language proficiency that are filled by—

(A) military personnel; and

(B) civilian personnel;

(4) the number of applicants for positions in such element in the preceding fiscal year that indicated foreign language proficiency,

including the foreign language indicated and the proficiency level;

(5) the number of persons hired by such element with foreign language proficiency, including the foreign language and a description of the proficiency level of such persons;

(6) the number of personnel of such element currently attending foreign language training, including the provider of such training;

(7) a description of the efforts of such element to recruit, hire, train, and retain personnel that are proficient in a foreign language;

(8) an assessment of methods and models for basic, advanced, and intensive foreign language training utilized by such element;

(9) for each foreign language and, as appropriate, dialect of a foreign language—

(A) the number of positions of such element that require proficiency in the foreign language or dialect;

(B) the number of personnel of such element that are serving in a position that requires proficiency in the foreign language or dialect to perform the primary duty of the position;

(C) the number of personnel of such element that are serving in a position that does not require proficiency in the foreign language or dialect to perform the primary duty of the position;

(D) the number of personnel of such element rated at each level of proficiency of the Interagency Language Roundtable;

(E) whether the number of personnel at each level of proficiency of the Interagency Language Roundtable meets the requirements of such element;

(F) the number of personnel serving or hired to serve as linguists for such element that are not qualified as linguists under the standards of the Interagency Language Roundtable;

(G) the number of personnel hired to serve as linguists for such element during the preceding calendar year;

(H) the number of personnel serving as linguists that discontinued serving such element during the preceding calendar year;

(I) the percentage of work requiring linguistic skills that is fulfilled by a foreign country, international organization, or other foreign entity; and

(J) the percentage of work requiring linguistic skills that is fulfilled by contractors;

(10) an assessment of the foreign language capacity and capabilities of the intelligence community as a whole;

(11) an identification of any critical gaps in foreign language proficiency with respect to such element and recommendations for eliminating such gaps;

(12) recommendations, if any, for eliminating required reports relating to foreign-language proficiency that the Director of National Intelligence considers outdated or no longer relevant; and

(13) an assessment of the feasibility of employing foreign nationals lawfully present in the United States who have previously worked as translators or interpreters for the Armed Forces or another department or agency of the United States Government in Iraq or Afghanistan to meet the critical language needs of such element.

(b) FORM.—The report required under subsection (a) shall be submitted in unclassified form, but may include a classified annex.

SEC. 338. REPORT ON PLANS TO INCREASE DIVERSITY WITHIN THE INTELLIGENCE COMMUNITY.

(a) REQUIREMENT FOR REPORT.—Not later than one year after the date of the enactment of this Act, the Director of National Intelligence, in coordination with the head of each element of the intelligence community, shall submit to the congressional intelligence committees a report on the plans of each such element to increase diversity within the intelligence community.

(b) CONTENT.—The report required by subsection (a) shall include specific implementation plans to increase diversity within each element of the intelligence community, including—

(1) specific implementation plans for each such element designed to achieve the goals articulated in the strategic plan of the Director of National Intelligence on equal employment opportunity and diversity;

(2) specific plans and initiatives for each such element to increase recruiting and hiring of diverse candidates;

(3) specific plans and initiatives for each such element to improve retention of diverse Federal employees at the junior, midgrade, senior, and management levels;

(4) a description of specific diversity awareness training and education programs for senior officials and managers of each such element; and

(5) a description of performance metrics to measure the success of carrying out the plans, initiatives, and programs described in paragraphs (1) through (4).

(c) FORM.—The report required by subsection (a) shall be submitted in unclassified form, but may include a classified annex.

SEC. 339. REPORT ON INTELLIGENCE COMMUNITY CONTRACTORS.

(a) REQUIREMENT FOR REPORT.—Not later than February 1, 2011, the Director of National Intelligence shall submit to the congressional intelligence committees and the Committees on Armed Services of the House of Representatives and the Senate a report describing the use of personal services contracts across the intelligence community, the impact of the use of such contracts on the intelligence community workforce, plans for conversion of contractor employment into United States Government employment, and the accountability mechanisms that govern the performance of such personal services contracts.

(b) CONTENT.—

(1) IN GENERAL.—The report submitted under subsection (a) shall include—

(A) a description of any relevant regulations or guidance issued by the Director of National Intelligence or the head of an element of the intelligence community and in effect as of February 1, 2011, relating to minimum standards required regarding the hiring, training, security clearance, and assignment of contract personnel and how those standards may differ from those for United States Government employees performing substantially similar functions;

(B) an identification of contracts in effect during the preceding fiscal year under which the contractor is performing substantially similar functions to a United States Government employee;

(C) an assessment of costs incurred or savings achieved during the preceding fiscal year by awarding contracts for the performance of such functions referred to in subparagraph (B) instead of using full-time employees of the elements of the intelligence community to perform such functions;

(D) an assessment of the appropriateness of using contractors to perform the activities described in paragraph (2);

(E) an estimate of the number of contracts, and the number of personnel working under such contracts, related to the performance of activities described in paragraph (2);

(F) a comparison of the compensation of contract employees and United States Government employees performing substantially similar functions during the preceding fiscal year;

(G) an analysis of the attrition of United States Government employees for contractor positions that provide substantially similar functions during the preceding fiscal year;

(H) a description of positions that have been or will be converted from contractor employment to United States Government employment during fiscal years 2011 and 2012;

(I) an analysis of the oversight and accountability mechanisms applicable to personal services contracts awarded for intelligence activities by each element of the intelligence community during fiscal years 2009 and 2010;

(J) an analysis of procedures in use in the intelligence community as of February 1, 2011, for conducting oversight of contractors to ensure identification and prosecution of criminal violations, financial waste, fraud, or other abuses committed by contractors or contract personnel; and

(K) an identification of best practices for oversight and accountability mechanisms applicable to personal services contracts.

(2) ACTIVITIES.—Activities described in this paragraph are the following:

(A) Intelligence collection.

(B) Intelligence analysis.

(C) Covert actions, including rendition, detention, and interrogation activities.

SEC. 340. STUDY ON ELECTRONIC WASTE DESTRUCTION PRACTICES OF THE INTELLIGENCE COMMUNITY.

(a) STUDY.—The Inspector General of the Intelligence Community shall conduct a study on the electronic waste destruction practices of the intelligence community. Such study shall assess—

(1) the security of the electronic waste disposal practices of the intelligence community, including the potential for counterintelligence exploitation of destroyed, discarded, or recycled materials;

(2) the environmental impact of such disposal practices; and

(3) methods to improve the security and environmental impact of such disposal practices, including steps to prevent the forensic exploitation of electronic waste.

(b) REPORT.—Not later than one year after the date of the enactment of this Act, the Inspector General of the Intelligence Community shall submit to the congressional intelligence committees a report containing the results of the study conducted under subsection (a).

SEC. 341. REVIEW OF RECORDS RELATING TO POTENTIAL HEALTH RISKS AMONG DESERT STORM VETERANS.

(a) REVIEW.—The Director of the Central Intelligence Agency shall conduct a classification review of the records of the Agency that are relevant to the known or potential health effects suffered by veterans of Operation Desert Storm as described in the November 2008, report by the Department of Veterans Affairs Research Advisory Committee on Gulf War Veterans' Illnesses.

(b) REPORT.—Not later than one year after the date of the enactment of this Act, the Director of the Central Intelligence Agency shall submit to Congress the results of the classification review conducted under subsection (a), including the total number of records of the Agency that are relevant.

(c) FORM.—The report required under subsection (b) shall be submitted in unclassified form, but may include a classified annex.

SEC. 342. REVIEW OF FEDERAL BUREAU OF INVESTIGATION EXERCISE OF ENFORCEMENT JURISDICTION IN FOREIGN NATIONS.

Not later than 120 days after the date of the enactment of this Act, the Director of the Federal Bureau of Investigation, in consultation with the Secretary of State, shall submit to Congress a review of constraints under international law and the laws of foreign nations to the assertion of enforcement jurisdiction with respect to criminal investigations of terrorism offenses under the

laws of the United States conducted by agents of the Federal Bureau of Investigation in foreign nations and using funds made available for the National Intelligence Program, including constraints identified in section 432 of the Restatement (Third) of the Foreign Relations Law of the United States.

SEC. 343. PUBLIC RELEASE OF INFORMATION ON PROCEDURES USED IN NARCOTICS AIRBRIDGE DENIAL PROGRAM IN PERU.

Not later than 30 days after the date of the enactment of this Act, the Director of the Central Intelligence Agency shall make publicly available an unclassified version of the report of the Inspector General of the Central Intelligence Agency entitled ''Procedures Used in Narcotics Airbridge Denial Program in Peru, 1995–2001'', dated August 25, 2008.

SEC. 344. REPORT ON THREAT FROM DIRTY BOMBS.

Not later than 180 days after the date of the enactment of this Act, the Director of National Intelligence, in consultation with the Nuclear Regulatory Commission, shall submit to Congress a report summarizing intelligence related to the threat to the United States from weapons that use radiological materials, including highly dispersible substances such as cesium-137.

SEC. 345. REPORT ON CREATION OF SPACE INTELLIGENCE OFFICE.

Not later than 60 days after the date of the enactment of this Act, the Director of National Intelligence shall submit to Congress a report on the feasibility and advisability of creating a national space intelligence office to manage space-related intelligence assets and access to such assets.

SEC. 346. REPORT ON ATTEMPT TO DETONATE EXPLOSIVE DEVICE ON NORTHWEST AIRLINES FLIGHT 253.

Not later than 180 days after the date of the enactment of this Act, the Director of National Intelligence shall submit to Congress a report on the attempt to detonate an explosive device aboard Northwest Airlines flight number 253 on December 25, 2009. Such report shall describe the failures, if any, to share or analyze intelligence or other information and the measures that the intelligence community has taken or will take to prevent such failures, including—

(1) a description of the roles and responsibilities of the counterterrorism analytic components of the intelligence community in synchronizing, correlating, and analyzing all sources of intelligence related to terrorism;

(2) an assessment of the technological capabilities of the United States Government to assess terrorist threats, including—

(A) a list of all databases used by counterterrorism analysts;

(B) a description of the steps taken by the intelligence community to integrate all relevant terrorist databases and allow for cross-database searches;

(C) a description of the steps taken by the intelligence community to correlate biographic information with terrorism-related intelligence; and

(D) a description of the improvements to information technology needed to enable the United States Government to better share information;

(3) any recommendations that the Director considers appropriate for legislation to improve the sharing of intelligence or information relating to terrorists;

(4) a description of the steps taken by the intelligence community to train analysts on watchlisting processes and procedures;

(5) a description of the manner in which watchlisting information is entered, reviewed, searched, analyzed, and acted upon by the relevant elements of the United States Government;

(6) a description of the steps the intelligence community is taking to enhance the rigor and raise the standard of tradecraft of intelligence analysis related to uncovering and preventing terrorist plots;

(7) a description of the processes and procedures by which the intelligence community prioritizes terrorism threat leads and the standards used by elements of the intelligence community to determine if follow-up action is appropriate;

(8) a description of the steps taken to enhance record information on possible terrorists in the Terrorist Identities Datamart Environment;

(9) an assessment of how to meet the challenge associated with exploiting the ever-increasing volume of information available to the intelligence community; and

(10) a description of the steps the intelligence community has taken or will take to respond to any findings and recommendations of the congressional intelligence committees, with respect to any such failures, that have been transmitted to the Director of National Intelligence.

SEC. 347. REPEAL OR MODIFICATION OF CERTAIN REPORTING REQUIREMENTS.

(a) ANNUAL REPORT ON INTELLIGENCE.—Section 109 of the National Security Act of 1947 (50 U.S.C. 404d) is repealed.

(b) ANNUAL AND SPECIAL REPORTS ON INTELLIGENCE SHARING WITH THE UNITED NATIONS.—Section 112 of the National Security Act of 1947 (50 U.S.C. 404g) is amended—

(1) by striking subsection (b); and

(2) by redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively.

(c) ANNUAL REPORT ON PROGRESS IN AUDITABLE FINANCIAL STATEMENTS.—Section 114A of the National Security Act of 1947 (50 U.S.C. 404i–1) is repealed.

(d) REPORT ON FINANCIAL INTELLIGENCE ON TERRORIST ASSETS.—Section 118 of the National Security Act of 1947 (50 U.S.C. 404m) is amended—

(1) in the heading, by striking ''SEMIANNUAL'' and inserting ''ANNUAL'';

(2) in subsection (a)—

(A) in the heading, by striking ''SEMIANNUAL'' and inserting ''ANNUAL'';

(B) in the matter preceding paragraph (1)—

(i) by striking ''semiannual basis'' and inserting ''annual basis''; and

(ii) by striking ''preceding six-month period'' and inserting ''preceding one-year period'';

(C) by striking paragraph (2); and

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

(3) in subsection (d)—

(A) in paragraph (1), by inserting ''the Committee on Armed Services,'' after ''the Committee on Appropriations,''; and

(B) in paragraph (2), by inserting ''the Committee on Armed Services,'' after ''the Committee on Appropriations,''.

(e) ANNUAL CERTIFICATION ON COUNTERINTELLIGENCE INITIATIVES.—Section 1102(b) of the National Security Act of 1947 (50 U.S.C. 442a(b)) is amended—

(1) by striking ''(1)''; and

(2) by striking paragraph (2).

(f) REPORT AND CERTIFICATION UNDER TERRORIST IDENTIFICATION CLASSIFICATION SYSTEM.—Section 343 of the Intelligence Authorization Act for Fiscal Year 2003 (50 U.S.C. 404n–2) is amended—

(1) by striking subsection (d); and

(2) by redesignating subsections (e), (f), (g), and (h) as subsections (d), (e), (f), and (g), respectively.

(g) ANNUAL REPORT ON COUNTERDRUG INTELLIGENCE MATTERS.—Section 826 of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 21 U.S.C. 873 note) is repealed.

(h) BIENNIAL REPORT ON FOREIGN INDUSTRIAL ESPIONAGE.—Subsection (b) of section 809 of the Intelligence Authorization Act for Fiscal Year 1995 (50 U.S.C. App. 2170b) is amended—

(1) in the heading, by striking ''ANNUAL UPDATE'' and inserting ''BIENNIAL REPORT'';

(2) by striking paragraphs (1) and (2) and inserting the following new paragraph:

''(1) REQUIREMENT TO SUBMIT.—Not later than February 1, 2011, and once every two years thereafter, the President shall submit to the congressional intelligence committees and congressional leadership a report updating the information referred to in subsection (a)(1)D).''; and

(3) by redesignating paragraph (3) as paragraph (2).

(i) TABLE OF CONTENTS AMENDMENTS.—

(1) NATIONAL SECURITY ACT OF 1947.—The table of contents in the first section of the National Security Act of 1947, as amended by section 332 of this Act, is further amended—

(A) by striking the item relating to section 109;

(B) by striking the item relating to section 114A; and

(C) by striking the item relating to section 118 and inserting the following new item:

''Sec. 118. Annual report on financial intelligence on terrorist assets.''.

(2) INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2003.—The table of contents in the first section of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 116 Stat. 2383) is amended by striking the item relating to section 826.

SEC. 348. INFORMATION ACCESS BY THE COMPTROLLER GENERAL OF THE UNITED STATES.

(a) DNI DIRECTIVE GOVERNING ACCESS.—

(1) REQUIREMENT FOR DIRECTIVE.—The Director of National Intelligence, in consultation with the Comptroller General of the United States, shall issue a written directive governing the access of the Comptroller General to information in the possession of an element of the intelligence community.

(2) AMENDMENT TO DIRECTIVE.—The Director of National Intelligence, in consultation with the Comptroller General, may issue an amendment to the directive issued under paragraph (1) at any time the Director determines such an amendment is appropriate.

(3) RELATIONSHIP TO OTHER LAWS.—The directive issued under paragraph (1) and any amendment to such directive issued under paragraph (2) shall be consistent with the provisions of—

(A) chapter 7 of title 31, United States Code; and

(B) the National Security Act of 1947 (50 U.S.C. 401 et seq.).

(b) CONFIDENTIALITY OF INFORMATION.—

(1) REQUIREMENT FOR CONFIDENTIALITY.—The Comptroller General of the United States shall ensure that the level of confidentiality of information made available to the Comptroller General pursuant to the directive issued under subsection (a)(1) or an amendment to such directive issued under subsection (a)(2) is not less than the level of confidentiality of such information required of the head of the element of the intelligence community from which such information was obtained.

(2) PENALTIES FOR UNAUTHORIZED DISCLOSURE.—An officer or employee of the Government Accountability Office shall be subject to the same statutory penalties for unauthorized disclosure or use of such information as an officer or employee of the element of the intelligence community from which such information was obtained.

(c) SUBMISSION TO CONGRESS.—

(1) SUBMISSION OF DIRECTIVE.—The directive issued under subsection (a)(1) shall be

submitted to Congress by the Director of National Intelligence, together with any comments of the Comptroller General of the United States, no later than May 1, 2011.

(2) SUBMISSION OF AMENDMENT.—Any amendment to such directive issued under subsection (a)(2) shall be submitted to Congress by the Director, together with any comments of the Comptroller General.

(d) EFFECTIVE DATE.—The directive issued under subsection (a)(1) and any amendment to such directive issued under subsection (a)(2) shall take effect 60 days after the date such directive or amendment is submitted to Congress under subsection (c), unless the Director determines that for reasons of national security the directive or amendment should take effect sooner.

SEC. 349. CONFORMING AMENDMENTS FOR REPORT SUBMISSION DATES.

Section 507 of the National Security Act of 1947 (50 U.S.C. 415b) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking subparagraphs (A), (B), and (G);

(ii) by redesignating subparagraphs (C), (D), (E), (F), (H), (I), and (N) as subparagraphs (A), (B), (C), (D), (E), (F), and (G), respectively; and

(iii) by adding at the end the following new subparagraphs:

''(H) The annual report on outside employment of employees of elements of the intelligence community required by section 102A(u)(2).

''(I) The annual report on financial intelligence on terrorist assets required by section 118.''; and

(B) in paragraph (2), by striking subparagraphs (C) and (D); and

(2) in subsection (b), by striking paragraph (6).

Subtitle E—Other Matters

SEC. 361. EXTENSION OF AUTHORITY TO DELETE INFORMATION ABOUT RECEIPT AND DISPOSITION OF FOREIGN GIFTS AND DECORATIONS.

Paragraph (4) of section 7342(f) of title 5, United States Code, is amended to read as follows:

''(4)(A) In transmitting such listings for an element of the intelligence community, the head of such element may delete the information described in subparagraph (A) or (C) of paragraph (2) or in subparagraph (A) or (C) of paragraph (3) if the head of such element certifies in writing to the Secretary of State that the publication of such information could adversely affect United States intelligence sources or methods.

''(B) Any information not provided to the Secretary of State pursuant to the authority in subparagraph (A) shall be transmitted to the Director of National Intelligence who shall keep a record of such information.

''(C) In this paragraph, the term 'intelligence community' has the meaning given that term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).''.

SEC. 362. MODIFICATION OF AVAILABILITY OF FUNDS FOR DIFFERENT INTELLIGENCE ACTIVITIES.

Subparagraph (B) of section 504(a)(3) of the National Security Act of 1947 (50 U.S.C. 414(a)(3)) is amended to read as follows:

''(B) the use of such funds for such activity supports an emergent need, improves program effectiveness, or increases efficiency; and''.

SEC. 363. PROTECTION OF CERTAIN NATIONAL SECURITY INFORMATION.

(a) INCREASE IN PENALTIES FOR DISCLOSURE OF UNDERCOVER INTELLIGENCE OFFICERS AND AGENTS.—

(1) DISCLOSURE OF AGENT AFTER ACCESS TO INFORMATION IDENTIFYING AGENT.—Subsection (a) of section 601 of the National Security Act of 1947 (50 U.S.C. 421) is amended by striking ''ten years'' and inserting ''15 years''.

(2) DISCLOSURE OF AGENT AFTER ACCESS TO CLASSIFIED INFORMATION.—Subsection (b) of such section is amended by striking ''five years'' and inserting ''10 years''.

(b) MODIFICATIONS TO ANNUAL REPORT ON PROTECTION OF INTELLIGENCE IDENTITIES.—The first sentence of section 603(a) of the National Security Act of 1947 (50 U.S.C. 423(a)) is amended by inserting ''including an assessment of the need, if any, for modification of this title for the purpose of improving legal protections for covert agents,'' after ''measures to protect the identities of covert agents,''.

SEC. 364. NATIONAL INTELLIGENCE PROGRAM BUDGET.

Section 601 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (50 U.S.C. 415c) is amended to read as follows:

''SEC. 601. AVAILABILITY TO PUBLIC OF CERTAIN INTELLIGENCE FUNDING INFORMATION.

''(a) BUDGET REQUEST.—At the time that the President submits to Congress the budget for a fiscal year pursuant to section 1105 of title 31, United States Code, the President shall disclose to the public the aggregate amount of appropriations requested for that fiscal year for the National Intelligence Program.

''(b) AMOUNTS APPROPRIATED EACH FISCAL YEAR.—Not later than 30 days after the end of each fiscal year, the Director of National Intelligence shall disclose to the public the aggregate amount of funds appropriated by Congress for the National Intelligence Program for such fiscal year.

''(c) WAIVER.—

''(1) IN GENERAL.—The President may waive or postpone the disclosure required by subsection (a) or (b) for a fiscal year by submitting to the Select Committee on Intelligence of the Senate and Permanent Select Committee on Intelligence of the House of Representatives—

''(A) a statement, in unclassified form, that the disclosure required in subsection (a) or (b) for that fiscal year would damage national security; and

''(B) a statement detailing the reasons for the waiver or postponement, which may be submitted in classified form.

''(2) SUBMISSION DATES.—The President shall submit the statements required under paragraph (1)—

''(A) in the case of a waiver or postponement of a disclosure required under subsection (a), at the time of the submission of the budget for the fiscal year for which such disclosure is waived or postponed; and

''(B) in the case of a waiver or postponement of a disclosure required under subsection (b), not later than 30 days after the date of the end of the fiscal year for which such disclosure is waived or postponed.

''(d) DEFINITION.—As used in this section, the term 'National Intelligence Program' has the meaning given the term in section 3(6) of the National Security Act of 1947 (50 U.S.C. 401a(6)).''.

SEC. 365. IMPROVING THE REVIEW AUTHORITY OF THE PUBLIC INTEREST DECLASSIFICATION BOARD.

Paragraph (5) of section 703(b) of the Public Interest Declassification Act of 2000 (50 U.S.C. 435 note) is amended—

(1) by striking ''jurisdiction,'' and inserting ''jurisdiction or by a member of the committee of jurisdiction,''; and

(2) by inserting '', to evaluate the proper classification of certain records,'' after ''certain records''.

SEC. 366. AUTHORITY TO DESIGNATE UNDERCOVER OPERATIONS TO COLLECT FOREIGN INTELLIGENCE OR COUNTERINTELLIGENCE.

Paragraph (1) of section 102(b) of the Department of Justice and Related Agencies Appropriations Act, 1993 (Public Law 102–395; 28 U.S.C. 533 note) is amended in the flush text following subparagraph (D) by striking ''(or, if designated by the Director, the Assistant Director, Intelligence Division) and the Attorney General (or, if designated by the Attorney General, the Assistant Attorney General for National Security)'' and inserting ''(or a designee of the Director who is in a position not lower than Deputy Assistant Director in the National Security Branch or a similar successor position) and the Attorney General (or a designee of the Attorney General who is in the National Security Division in a position not lower than Deputy Assistant Attorney General or a similar successor position)''.

SEC. 367. SECURITY CLEARANCES: REPORTS; RECIPROCITY.

(a) REPORTS RELATING TO SECURITY CLEARANCES.—

(1) QUADRENNIAL AUDIT; SECURITY CLEARANCE DETERMINATIONS.—

(A) IN GENERAL.—Title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.), as amended by section 325 of this Act, is further amended by inserting after section 506G, as added by section 325(a), the following new section:

''REPORTS ON SECURITY CLEARANCES

''SEC. 506H. (a) QUADRENNIAL AUDIT OF POSITION REQUIREMENTS.—(1) The President shall every four years conduct an audit of the manner in which the executive branch determines whether a security clearance is required for a particular position in the United States Government.

''(2) Not later than 30 days after the completion of an audit conducted under paragraph (1), the President shall submit to Congress the results of such audit.

''(b) REPORT ON SECURITY CLEARANCE DETERMINATIONS.—(1) Not later than February 1 of each year, the President shall submit to Congress a report on the security clearance process. Such report shall include, for each security clearance level—

''(A) the number of employees of the United States Government who—

''(i) held a security clearance at such level as of October 1 of the preceding year; and

''(ii) were approved for a security clearance at such level during the preceding fiscal year;

''(B) the number of contractors to the United States Government who—

''(i) held a security clearance at such level as of October 1 of the preceding year; and

''(ii) were approved for a security clearance at such level during the preceding fiscal year; and

''(C) for each element of the intelligence community—

''(i) the total amount of time it took to process the security clearance determination for such level that—

''(I) was among the 80 percent of security clearance determinations made during the preceding fiscal year that took the shortest amount of time to complete; and

''(II) took the longest amount of time to complete;

''(ii) the total amount of time it took to process the security clearance determination for such level that—

''(I) was among the 90 percent of security clearance determinations made during the preceding fiscal year that took the shortest amount of time to complete; and

''(II) took the longest amount of time to complete;

''(iii) the number of pending security clearance investigations for such level as of October 1 of the preceding year that have remained pending for—

''(I) 4 months or less;

''(II) between 4 months and 8 months;

''(III) between 8 months and one year; and

''(IV) more than one year;

''(iv) the percentage of reviews during the preceding fiscal year that resulted in a denial or revocation of a security clearance;

''(v) the percentage of investigations during the preceding fiscal year that resulted in incomplete information;

''(vi) the percentage of investigations during the preceding fiscal year that did not result in enough information to make a decision on potentially adverse information; and

''(vii) for security clearance determinations completed or pending during the preceding fiscal year that have taken longer than one year to complete—

''(I) the number of security clearance determinations for positions as employees of the United States Government that required more than one year to complete;

''(II) the number of security clearance determinations for contractors that required more than one year to complete;

''(III) the agencies that investigated and adjudicated such determinations; and

''(IV) the cause of significant delays in such determinations.

''(2) For purposes of paragraph (1), the President may consider—

''(A) security clearances at the level of confidential and secret as one security clearance level; and

''(B) security clearances at the level of top secret or higher as one security clearance level.

''(c) FORM.—The results required under subsection (a)(2) and the reports required under subsection (b)(1) shall be submitted in unclassified form, but may include a classified annex.''.

(B) INITIAL AUDIT.—The first audit required to be conducted under section 506H(a)(1) of the National Security Act of 1947, as added by subparagraph (A) of this paragraph, shall be completed not later than February 1, 2011.

(C) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of such Act, as amended by section 347(i) of this Act, is further amended by inserting after the item relating to section 506G, as added by section 325 of this Act, the following new item:

''Sec. 506H. Reports on security clearances.''.

(2) REPORT ON METRICS FOR ADJUDICATION QUALITY.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report on security clearance investigations and adjudications. Such report shall include—

(A) United States Government-wide adjudication guidelines and metrics for adjudication quality;

(B) a plan to improve the professional development of security clearance adjudicators;

(C) metrics to evaluate the effectiveness of interagency clearance reciprocity;

(D) United States Government-wide investigation standards and metrics for investigation quality; and

(E) the advisability, feasibility, counterintelligence risk, and cost effectiveness of—

(i) by not later than January 1, 2012, requiring the investigation and adjudication of security clearances to be conducted by not more than two Federal agencies; and

(ii) by not later than January 1, 2015, requiring the investigation and adjudication of security clearances to be conducted by not more than one Federal agency.

(b) SECURITY CLEARANCE RECIPROCITY.—

(1) AUDIT.—The Inspector General of the Intelligence Community shall conduct an audit of the reciprocity of security clearances among the elements of the intelligence community.

(2) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Inspector General of the Intelligence Community shall submit to the congressional intelligence committees a report containing the results of the audit conducted under paragraph (1). Such report shall include an assessment of the time required to obtain a reciprocal security clearance for—

(A) an employee of an element of the intelligence community detailed to another element of the intelligence community;

(B) an employee of an element of the intelligence community seeking permanent employment with another element of the intelligence community; and

(C) a contractor seeking permanent employment with an element of the intelligence community.

(3) FORM.—The report required under paragraph (2) shall be submitted in unclassified form, but may include a classified annex.

SEC. 368. CORRECTING LONG-STANDING MATERIAL WEAKNESSES.

(a) DEFINITIONS.—In this section:

(1) COVERED ELEMENT OF THE INTELLIGENCE COMMUNITY.—The term ''covered element of the intelligence community'' means—

(A) the Central Intelligence Agency;

(B) the Defense Intelligence Agency;

(C) the National Geospatial-Intelligence Agency;

(D) the National Reconnaissance Office; or

(E) the National Security Agency.

(2) INDEPENDENT AUDITOR.—The term ''independent auditor'' means an individual who—

(A)(i) is a Federal, State, or local government auditor who meets the independence standards included in generally accepted government auditing standards; or

(ii) is a public accountant who meets such independence standards; and

(B) is designated as an auditor by the Director of National Intelligence or the head of a covered element of the intelligence community, as appropriate.

(3) INDEPENDENT REVIEW.—The term ''independent review'' means an audit, attestation, or examination conducted by an independent auditor in accordance with generally accepted government auditing standards.

(4) LONG-STANDING, CORRECTABLE MATERIAL WEAKNESS.—The term ''long-standing, correctable material weakness'' means a material weakness—

(A) that was first reported in the annual financial report of a covered element of the intelligence community for a fiscal year prior to fiscal year 2007; and

(B) the correction of which is not substantially dependent on a business system that was not implemented prior to the end of fiscal year 2010.

(5) MATERIAL WEAKNESS.—The term ''material weakness'' has the meaning given that term under the Office of Management and Budget Circular A–123, entitled ''Management's Responsibility for Internal Control,'' revised December 21, 2004.

(6) SENIOR INTELLIGENCE MANAGEMENT OFFICIAL.—The term ''senior intelligence management official'' means an official within a covered element of the intelligence community who is—

(A)(i) compensated under the Senior Intelligence Service pay scale; or

(ii) the head of a covered element of the intelligence community; and

(B) compensated for employment with funds appropriated pursuant to an authorization of appropriations in this Act.

(b) IDENTIFICATION OF SENIOR INTELLIGENCE MANAGEMENT OFFICIALS.—

(1) REQUIREMENT TO IDENTIFY.—Not later than 30 days after the date of the enactment of this Act, the head of a covered element of the intelligence community shall designate a senior intelligence management official of such element to be responsible for correcting each long-standing, correctable material weakness of such element.

(2) HEAD OF A COVERED ELEMENT OF THE INTELLIGENCE COMMUNITY.—The head of a covered element of the intelligence community may designate himself or herself as the senior intelligence management official responsible for correcting a long-standing, correctable material weakness under paragraph (1).

(3) REQUIREMENT TO UPDATE DESIGNATION.—If the head of a covered element of the intelligence community determines that a senior intelligence management official designated under paragraph (1) is no longer responsible for correcting a long-standing, correctable material weakness, the head of such element shall designate the successor to such official not later than 10 days after the date of such determination.

(c) NOTIFICATION.—Not later than 10 days after the date on which the head of a covered element of the intelligence community has designated a senior intelligence management official pursuant to paragraph (1) or (3) of subsection (b), the head of such element shall provide written notification of such designation to the Director of National Intelligence and to such senior intelligence management official.

(d) CORRECTION OF LONG-STANDING, MATERIAL WEAKNESS.—

(1) DETERMINATION OF CORRECTION OF DEFICIENCY.—If a long-standing, correctable material weakness is corrected, the senior intelligence management official who is responsible for correcting such long-standing, correctable material weakness shall make and issue a determination of the correction.

(2) BASIS FOR DETERMINATION.—The determination of the senior intelligence management official under paragraph (1) shall be based on the findings of an independent review.

(3) NOTIFICATION AND SUBMISSION OF FINDINGS.—A senior intelligence management official who makes a determination under paragraph (1) shall—

(A) notify the head of the appropriate covered element of the intelligence community of such determination at the time the determination is made; and

(B) ensure that the independent auditor whose findings are the basis of a determination under paragraph (1) submits to the head of the covered element of the intelligence community and the Director of National Intelligence the findings that such determination is based on not later than 5 days after the date on which such determination is made.

(e) CONGRESSIONAL OVERSIGHT.—The head of a covered element of the intelligence community shall notify the congressional intelligence committees not later than 30 days after the date—

(1) on which a senior intelligence management official is designated under paragraph (1) or (3) of subsection (b) and notified under subsection (c); or

(2) of the correction of a long-standing, correctable material weakness, as verified by an independent auditor under subsection (d)(2).

SEC. 369. INTELLIGENCE COMMUNITY FINANCIAL IMPROVEMENT AND AUDIT READINESS.

Not later than 180 days after the date of the enactment of this Act, the Director of National Intelligence shall—

(1) conduct a review of the status of the auditability compliance of each element of the intelligence community; and

(2) develop a plan and schedule to achieve a full, unqualified audit of each element of the intelligence community not later than September 30, 2013.

TITLE IV—MATTERS RELATING TO ELEMENTS OF THE INTELLIGENCE COMMUNITY

Subtitle A—Office of the Director of National Intelligence

SEC. 401. ACCOUNTABILITY REVIEWS BY THE DIRECTOR OF NATIONAL INTELLIGENCE.

Subsection (f) of section 102A of the National Security Act of 1947 (50 U.S.C. 403–1) is amended—

(1) by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively; and

(2) by inserting after paragraph (6) the following new paragraph:

''(7)(A) The Director of National Intelligence shall, if the Director determines it is necessary, or may, if requested by a congressional intelligence committee, conduct an accountability review of an element of the intelligence community or the personnel of such element in relation to a failure or deficiency within the intelligence community.

''(B) The Director of National Intelligence, in consultation with the Attorney General, shall establish guidelines and procedures for conducting an accountability review under subparagraph (A).

''(C)(i) The Director of National Intelligence shall provide the findings of an accountability review conducted under subparagraph (A) and the Director's recommendations for corrective or punitive action, if any, to the head of the applicable element of the intelligence community. Such recommendations may include a recommendation for dismissal of personnel.

''(ii) If the head of such element does not implement a recommendation made by the Director under clause (i), the head of such element shall submit to the congressional intelligence committees a notice of the determination not to implement the recommendation, including the reasons for the determination.

''(D) The requirements of this paragraph shall not be construed to limit any authority of the Director of National Intelligence under subsection (m) or with respect to supervision of the Central Intelligence Agency.''.

SEC. 402. AUTHORITIES FOR INTELLIGENCE INFORMATION SHARING.

(a) AUTHORITIES FOR INTERAGENCY FUNDING.—Section 102A(d)(2) of the National Security Act of 1947 (50 U.S.C. 403–1(d)(2)) is amended by striking ''Program to another such program.'' and inserting ''Program—

''(A) to another such program;

''(B) to other departments or agencies of the United States Government for the development and fielding of systems of common concern related to the collection, processing, analysis, exploitation, and dissemination of intelligence information; or

''(C) to a program funded by appropriations not within the National Intelligence Program to address critical gaps in intelligence information sharing or access capabilities.''.

(b) AUTHORITIES OF HEADS OF OTHER DEPARTMENTS AND AGENCIES.—Notwithstanding any other provision of law, the head of any department or agency of the United States is authorized to receive and utilize funds made available to the department or agency by the Director of National Intelligence pursuant to section 102A(d)(2) of the National Security Act of 1947 (50 U.S.C. 403–1(d)(2)), as amended by subsection (a), and receive and utilize any system referred to in such section that is made available to such department or agency.

SEC. 403. LOCATION OF THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE.

Subsection (e) of section 103 of the National Security Act of 1947 (50 U.S.C. 403–3) is amended to read as follows:

''(e) LOCATION OF THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE.—The headquarters of the Office of the Director of National Intelligence may be located in the Washington metropolitan region, as that term is defined in section 8301 of title 40, United States Code.''.

SEC. 404. TITLE AND APPOINTMENT OF CHIEF INFORMATION OFFICER OF THE INTELLIGENCE COMMUNITY.

Section 103G of the National Security Act of 1947 (50 U.S.C. 403–3g) is amended—

(1) in subsection (a)—

(A) by inserting ''of the Intelligence Community'' after ''Chief Information Officer''; and

(B) by striking ''President,'' and all that follows and inserting ''President.'';

(2) by striking subsection (b) and redesignating subsections (c) and (d) as subsections (b) and (c), respectively;

(3) in subsection (b) (as so redesignated), by inserting ''of the Intelligence Community'' after ''Chief Information Officer''; and

(4) in subsection (c) (as so redesignated), by inserting ''of the Intelligence Community'' before ''may not''.

SEC. 405. INSPECTOR GENERAL OF THE INTELLIGENCE COMMUNITY.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Title I of the National Security Act of 1947 (50 U.S.C. 402 et seq.), as amended by section 347 of this Act, is further amended by inserting after section 103G the following new section:

''INSPECTOR GENERAL OF THE INTELLIGENCE COMMUNITY

''SEC. 103H. (a) OFFICE OF INSPECTOR GENERAL OF THE INTELLIGENCE COMMUNITY.—There is within the Office of the Director of National Intelligence an Office of the Inspector General of the Intelligence Community.

''(b) PURPOSE.—The purpose of the Office of the Inspector General of the Intelligence Community is—

''(1) to create an objective and effective office, appropriately accountable to Congress, to initiate and conduct independent investigations, inspections, audits, and reviews on programs and activities within the responsibility and authority of the Director of National Intelligence;

''(2) to provide leadership and coordination and recommend policies for activities designed—

''(A) to promote economy, efficiency, and effectiveness in the administration and implementation of such programs and activities; and

''(B) to prevent and detect fraud and abuse in such programs and activities;

''(3) to provide a means for keeping the Director of National Intelligence fully and currently informed about—

''(A) problems and deficiencies relating to the administration of programs and activities within the responsibility and authority of the Director of National Intelligence; and

''(B) the necessity for, and the progress of, corrective actions; and

''(4) in the manner prescribed by this section, to ensure that the congressional intelligence committees are kept similarly informed of—

''(A) significant problems and deficiencies relating to programs and activities within the responsibility and authority of the Director of National Intelligence; and

''(B) the necessity for, and the progress of, corrective actions.

''(c) INSPECTOR GENERAL OF THE INTELLIGENCE COMMUNITY.—(1) There is an Inspector General of the Intelligence Community, who shall be the head of the Office of the Inspector General of the Intelligence Community, who shall be appointed by the President, by and with the advice and consent of the Senate.

''(2) The nomination of an individual for appointment as Inspector General shall be made—

''(A) without regard to political affiliation;

''(B) on the basis of integrity, compliance with security standards of the intelligence community, and prior experience in the field of intelligence or national security; and

''(C) on the basis of demonstrated ability in accounting, financial analysis, law, management analysis, public administration, or investigations.

''(3) The Inspector General shall report directly to and be under the general supervision of the Director of National Intelligence.

''(4) The Inspector General may be removed from office only by the President. The President shall communicate in writing to the congressional intelligence committees the reasons for the removal not later than 30 days prior to the effective date of such removal. Nothing in this paragraph shall be construed to prohibit a personnel action otherwise authorized by law, other than transfer or removal.

''(d) ASSISTANT INSPECTORS GENERAL.—Subject to the policies of the Director of National Intelligence, the Inspector General of the Intelligence Community shall—

''(1) appoint an Assistant Inspector General for Audit who shall have the responsibility for supervising the performance of auditing activities relating to programs and activities within the responsibility and authority of the Director;

''(2) appoint an Assistant Inspector General for Investigations who shall have the responsibility for supervising the performance of investigative activities relating to such programs and activities; and

''(3) appoint other Assistant Inspectors General that, in the judgment of the Inspector General, are necessary to carry out the duties of the Inspector General.

''(e) DUTIES AND RESPONSIBILITIES.—It shall be the duty and responsibility of the Inspector General of the Intelligence Community—

''(1) to provide policy direction for, and to plan, conduct, supervise, and coordinate independently, the investigations, inspections, audits, and reviews relating to programs and activities within the responsibility and authority of the Director of National Intelligence;

''(2) to keep the Director of National Intelligence fully and currently informed concerning violations of law and regulations, fraud, and other serious problems, abuses, and deficiencies relating to the programs and activities within the responsibility and authority of the Director, to recommend corrective action concerning such problems, and to report on the progress made in implementing such corrective action;

''(3) to take due regard for the protection of intelligence sources and methods in the preparation of all reports issued by the Inspector General, and, to the extent consistent with the purpose and objective of such reports, take such measures as may be appropriate to minimize the disclosure of intelligence sources and methods described in such reports; and

''(4) in the execution of the duties and responsibilities under this section, to comply with generally accepted government auditing.

''(f) LIMITATIONS ON ACTIVITIES.—(1) The Director of National Intelligence may prohibit the Inspector General of the Intelligence Community from initiating, carrying out, or completing any investigation, inspection, audit, or review if the Director determines that such prohibition is necessary to protect vital national security interests of the United States.

''(2) Not later than seven days after the date on which the Director exercises the authority under paragraph (1), the Director shall submit to the congressional intelligence committees an appropriately classified statement of the reasons for the exercise of such authority.

''(3) The Director shall advise the Inspector General at the time a statement under paragraph (2) is submitted, and, to the extent consistent with the protection of intelligence sources and methods, provide the Inspector General with a copy of such statement.

''(4) The Inspector General may submit to the congressional intelligence committees any comments on the statement of which the Inspector General has notice under paragraph (3) that the Inspector General considers appropriate.

''(g) AUTHORITIES.—(1) The Inspector General of the Intelligence Community shall have direct and prompt access to the Director of National Intelligence when necessary for any purpose pertaining to the performance of the duties of the Inspector General.

''(2)(A) The Inspector General shall, subject to the limitations in subsection (f), make such investigations and reports relating to the administration of the programs and activities within the authorities and responsibilities of the Director as are, in the judgment of the Inspector General, necessary or desirable.

''(B) The Inspector General shall have access to any employee, or any employee of a contractor, of any element of the intelligence community needed for the performance of the duties of the Inspector General.

''(C) The Inspector General shall have direct access to all records, reports, audits, reviews, documents, papers, recommendations, or other materials that relate to the programs and activities with respect to which the Inspector General has responsibilities under this section.

''(D) The level of classification or compartmentation of information shall not, in and of itself, provide a sufficient rationale for denying the Inspector General access to any materials under subparagraph (C).

''(E) The Director, or on the recommendation of the Director, another appropriate official of the intelligence community, shall take appropriate administrative actions against an employee, or an employee of a contractor, of an element of the intelligence community that fails to cooperate with the Inspector General. Such administrative action may include loss of employment or the termination of an existing contractual relationship.

''(3) The Inspector General is authorized to receive and investigate, pursuant to subsection (h), complaints or information from any person concerning the existence of an activity within the authorities and responsibilities of the Director of National Intelligence constituting a violation of laws, rules, or regulations, or mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to the public health and safety. Once such complaint or information has been received from an employee of the intelligence community—

''(A) the Inspector General shall not disclose the identity of the employee without the consent of the employee, unless the Inspector General determines that such disclosure is unavoidable during the course of the investigation or the disclosure is made to an official of the Department of Justice responsible for determining whether a prosecution should be undertaken; and

''(B) no action constituting a reprisal, or threat of reprisal, for making such complaint or disclosing such information to the Inspector General may be taken by any employee in a position to take such actions, unless the complaint was made or the information was disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.

''(4) The Inspector General shall have the authority to administer to or take from any person an oath, affirmation, or affidavit, whenever necessary in the performance of the duties of the Inspector General, which oath, affirmation, or affidavit when administered or taken by or before an employee of the Office of the Inspector General of the Intelligence Community designated by the Inspector General shall have the same force and effect as if administered or taken by, or before, an officer having a seal.

''(5)(A) Except as provided in subparagraph (B), the Inspector General is authorized to require by subpoena the production of all information, documents, reports, answers, records, accounts, papers, and other data in any medium (including electronically stored information, as well as any tangible thing) and documentary evidence necessary in the performance of the duties and responsibilities of the Inspector General.

''(B) In the case of departments, agencies, and other elements of the United States Government, the Inspector General shall obtain information, documents, reports, answers, records, accounts, papers, and other data and evidence for the purpose specified in subparagraph (A) using procedures other than by subpoenas.

''(C) The Inspector General may not issue a subpoena for, or on behalf of, any component of the Office of the Director of National Intelligence or any element of the intelligence community, including the Office of the Director of National Intelligence.

''(D) In the case of contumacy or refusal to obey a subpoena issued under this paragraph, the subpoena shall be enforceable by order of any appropriate district court of the United States.

''(6) The Inspector General may obtain services as authorized by section 3109 of title 5, United States Code, at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for grade GS–15 of the General Schedule under section 5332 of title 5, United States Code.

''(7) The Inspector General may, to the extent and in such amounts as may be provided in appropriations, enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and to make such payments as may be necessary to carry out the provisions of this section.

''(h) COORDINATION AMONG INSPECTORS GENERAL.—(1)(A) In the event of a matter within the jurisdiction of the Inspector General of the Intelligence Community that may be subject to an investigation, inspection, audit, or review by both the Inspector General of the Intelligence Community and an inspector general with oversight responsibility for an element of the intelligence community, the Inspector General of the Intelligence Community and such other inspector general shall expeditiously resolve the question of which inspector general shall conduct such investigation, inspection, audit, or review to avoid unnecessary duplication of the activities of the inspectors general.

''(B) In attempting to resolve a question under subparagraph (A), the inspectors general concerned may request the assistance of the Intelligence Community Inspectors General Forum established under paragraph (2). In the event of a dispute between an inspector general within a department or agency of the United States Government and the Inspector General of the Intelligence Community that has not been resolved with the assistance of such Forum, the inspectors general shall submit the question to the Director of National Intelligence and the head of the affected department or agency for resolution.

''(2)(A) There is established the Intelligence Community Inspectors General Forum, which shall consist of all statutory or administrative inspectors general with oversight responsibility for an element of the intelligence community.

''(B) The Inspector General of the Intelligence Community shall serve as the Chair of the Forum established under subparagraph (A). The Forum shall have no administrative authority over any inspector general, but shall serve as a mechanism for informing its members of the work of individual members of the Forum that may be of common interest and discussing questions about jurisdiction or access to employees, employees of contract personnel, records, audits, reviews, documents, recommendations, or other materials that may involve or be of assistance to more than one of its members.

''(3) The inspector general conducting an investigation, inspection, audit, or review covered by paragraph (1) shall submit the results of such investigation, inspection, audit, or review to any other inspector general, including the Inspector General of the Intelligence Community, with jurisdiction to conduct such investigation, inspection, audit, or review who did not conduct such investigation, inspection, audit, or review.

''(i) COUNSEL TO THE INSPECTOR GENERAL.—(1) The Inspector General of the Intelligence Community shall—

''(A) appoint a Counsel to the Inspector General who shall report to the Inspector General; or

''(B) obtain the services of a counsel appointed by and directly reporting to another inspector general or the Council of the Inspectors General on Integrity and Efficiency on a reimbursable basis.

''(2) The counsel appointed or obtained under paragraph (1) shall perform such functions as the Inspector General may prescribe.

''(j) STAFF AND OTHER SUPPORT.—(1) The Director of National Intelligence shall provide the Inspector General of the Intelligence Community with appropriate and adequate office space at central and field office locations, together with such equipment, office supplies, maintenance services, and communications facilities and services as may be necessary for the operation of such offices.

''(2)(A) Subject to applicable law and the policies of the Director of National Intelligence, the Inspector General shall select, appoint, and employ such officers and employees as may be necessary to carry out the functions, powers, and duties of the Inspector General. The Inspector General shall ensure that any officer or employee so selected, appointed, or employed has security clearances appropriate for the assigned duties of such officer or employee.

''(B) In making selections under subparagraph (A), the Inspector General shall ensure that such officers and employees have the requisite training and experience to enable the Inspector General to carry out the duties of the Inspector General effectively.

''(C) In meeting the requirements of this paragraph, the Inspector General shall create within the Office of the Inspector General of the Intelligence Community a career

cadre of sufficient size to provide appropriate continuity and objectivity needed for the effective performance of the duties of the Inspector General.

''(3) Consistent with budgetary and personnel resources allocated by the Director of National Intelligence, the Inspector General has final approval of—

''(A) the selection of internal and external candidates for employment with the Office of the Inspector General; and

''(B) all other personnel decisions concerning personnel permanently assigned to the Office of the Inspector General, including selection and appointment to the Senior Intelligence Service, but excluding all security-based determinations that are not within the authority of a head of a component of the Office of the Director of National Intelligence.

''(4)(A) Subject to the concurrence of the Director of National Intelligence, the Inspector General may request such information or assistance as may be necessary for carrying out the duties and responsibilities of the Inspector General from any department, agency, or other element of the United States Government.

''(B) Upon request of the Inspector General for information or assistance under subparagraph (A), the head of the department, agency, or element concerned shall, insofar as is practicable and not in contravention of any existing statutory restriction or regulation of the department, agency, or element, furnish to the Inspector General, such information or assistance.

''(C) The Inspector General of the Intelligence Community may, upon reasonable notice to the head of any element of the intelligence community and in coordination with that element's inspector general pursuant to subsection (h), conduct, as authorized by this section, an investigation, inspection, audit, or review of such element and may enter into any place occupied by such element for purposes of the performance of the duties of the Inspector General.

''(k) REPORTS.—(1)(A) The Inspector General of the Intelligence Community shall, not later than January 31 and July 31 of each year, prepare and submit to the Director of National Intelligence a classified, and, as appropriate, unclassified semiannual report summarizing the activities of the Office of the Inspector General of the Intelligence Community during the immediately preceding 6-month period ending December 31 (of the preceding year) and June 30, respectively. The Inspector General of the Intelligence Community shall provide any portion of the report involving a component of a department of the United States Government to the head of that department simultaneously with submission of the report to the Director of National Intelligence.

''(B) Each report under this paragraph shall include, at a minimum, the following:

''(i) A list of the title or subject of each investigation, inspection, audit, or review conducted during the period covered by such report.

''(ii) A description of significant problems, abuses, and deficiencies relating to the administration of programs and activities of the intelligence community within the responsibility and authority of the Director of National Intelligence, and in the relationships between elements of the intelligence community, identified by the Inspector General during the period covered by such report.

''(iii) A description of the recommendations for corrective action made by the Inspector General during the period covered by such report with respect to significant problems, abuses, or deficiencies identified in clause (ii).

''(iv) A statement of whether or not corrective action has been completed on each significant recommendation described in previous semiannual reports, and, in a case where corrective action has been completed, a description of such corrective action.

''(v) A certification of whether or not the Inspector General has had full and direct access to all information relevant to the performance of the functions of the Inspector General.

''(vi) A description of the exercise of the subpoena authority under subsection (g)(5) by the Inspector General during the period covered by such report.

''(vii) Such recommendations as the Inspector General considers appropriate for legislation to promote economy, efficiency, and effectiveness in the administration and implementation of programs and activities within the responsibility and authority of the Director of National Intelligence, and to detect and eliminate fraud and abuse in such programs and activities.

''(C) Not later than 30 days after the date of receipt of a report under subparagraph (A), the Director shall transmit the report to the congressional intelligence committees together with any comments the Director considers appropriate. The Director shall transmit to the committees of the Senate and of the House of Representatives with jurisdiction over a department of the United States Government any portion of the report involving a component of such department simultaneously with submission of the report to the congressional intelligence committees.

''(2)(A) The Inspector General shall report immediately to the Director whenever the Inspector General becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to programs and activities within the responsibility and authority of the Director of National Intelligence.

''(B) The Director shall transmit to the congressional intelligence committees each report under subparagraph (A) within 7 calendar days of receipt of such report, together with such comments as the Director considers appropriate. The Director shall transmit to the committees of the Senate and of the House of Representatives with jurisdiction over a department of the United States Government any portion of each report under subparagraph (A) that involves a problem, abuse, or deficiency related to a component of such department simultaneously with transmission of the report to the congressional intelligence committees.

''(3)(A) In the event that—

''(i) the Inspector General is unable to resolve any differences with the Director affecting the execution of the duties or responsibilities of the Inspector General;

''(ii) an investigation, inspection, audit, or review carried out by the Inspector General focuses on any current or former intelligence community official who—

''(I) holds or held a position in an element of the intelligence community that is subject to appointment by the President, whether or not by and with the advice and consent of the Senate, including such a position held on an acting basis;

''(II) holds or held a position in an element of the intelligence community, including a position held on an acting basis, that is appointed by the Director of National Intelligence; or

''(III) holds or held a position as head of an element of the intelligence community or a position covered by subsection (b) or (c) of section 106;

''(iii) a matter requires a report by the Inspector General to the Department of Justice on possible criminal conduct by a current or former official described in clause (ii);

''(iv) the Inspector General receives notice from the Department of Justice declining or approving prosecution of possible criminal conduct of any current or former official described in clause (ii); or

''(v) the Inspector General, after exhausting all possible alternatives, is unable to obtain significant documentary information in the course of an investigation, inspection, audit, or review,

the Inspector General shall immediately notify, and submit a report to, the congressional intelligence committees on such matter.

''(B) The Inspector General shall submit to the committees of the Senate and of the House of Representatives with jurisdiction over a department of the United States Government any portion of each report under subparagraph (A) that involves an investigation, inspection, audit, or review carried out by the Inspector General focused on any current or former official of a component of such department simultaneously with submission of the report to the congressional intelligence committees.

''(4) The Director shall submit to the congressional intelligence committees any report or findings and recommendations of an investigation, inspection, audit, or review conducted by the office which has been requested by the Chairman or Vice Chairman or ranking minority member of either committee.

''(5)(A) An employee of an element of the intelligence community, an employee assigned or detailed to an element of the intelligence community, or an employee of a contractor to the intelligence community who intends to report to Congress a complaint or information with respect to an urgent concern may report such complaint or information to the Inspector General.

''(B) Not later than the end of the 14-calendar-day period beginning on the date of receipt from an employee of a complaint or information under subparagraph (A), the Inspector General shall determine whether the complaint or information appears credible. Upon making such a determination, the Inspector General shall transmit to the Director a notice of that determination, together with the complaint or information.

''(C) Upon receipt of a transmittal from the Inspector General under subparagraph (B), the Director shall, within 7 calendar days of such receipt, forward such transmittal to the congressional intelligence committees, together with any comments the Director considers appropriate.

''(D)(i) If the Inspector General does not find credible under subparagraph (B) a complaint or information submitted under subparagraph (A), or does not transmit the complaint or information to the Director in accurate form under subparagraph (B), the employee (subject to clause (ii)) may submit the complaint or information to Congress by contacting either or both of the congressional intelligence committees directly.

''(ii) An employee may contact the congressional intelligence committees directly as described in clause (i) only if the employee—

''(I) before making such a contact, furnishes to the Director, through the Inspector General, a statement of the employee's complaint or information and notice of the employee's intent to contact the congressional intelligence committees directly; and

''(II) obtains and follows from the Director, through the Inspector General, direction on how to contact the congressional intelligence committees in accordance with appropriate security practices.

''(iii) A member or employee of one of the congressional intelligence committees who

receives a complaint or information under this subparagraph does so in that member or employee's official capacity as a member or employee of such committee.

''(E) The Inspector General shall notify an employee who reports a complaint or information to the Inspector General under this paragraph of each action taken under this paragraph with respect to the complaint or information. Such notice shall be provided not later than 3 days after any such action is taken.

''(F) An action taken by the Director or the Inspector General under this paragraph shall not be subject to judicial review.

''(G) In this paragraph, the term 'urgent concern' means any of the following:

''(i) A serious or flagrant problem, abuse, violation of law or Executive order, or deficiency relating to the funding, administration, or operation of an intelligence activity within the responsibility and authority of the Director of National Intelligence involving classified information, but does not include differences of opinions concerning public policy matters.

''(ii) A false statement to Congress, or a willful withholding from Congress, on an issue of material fact relating to the funding, administration, or operation of an intelligence activity.

''(iii) An action, including a personnel action described in section 2302(a)(2)(A) of title 5, United States Code, constituting reprisal or threat of reprisal prohibited under subsection (g)(3)(B) of this section in response to an employee's reporting an urgent concern in accordance with this paragraph.

''(H) Nothing in this section shall be construed to limit the protections afforded to an employee under section 17(d) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q(d)) or section 8H of the Inspector General Act of 1978 (5 U.S.C. App.).

''(6) In accordance with section 535 of title 28, United States Code, the Inspector General shall expeditiously report to the Attorney General any information, allegation, or complaint received by the Inspector General relating to violations of Federal criminal law that involves a program or operation of an element of the intelligence community, or in the relationships between the elements of the intelligence community, consistent with such guidelines as may be issued by the Attorney General pursuant to subsection (b)(2) of such section. A copy of each such report shall be furnished to the Director.

''(l) CONSTRUCTION OF DUTIES REGARDING ELEMENTS OF INTELLIGENCE COMMUNITY.—Except as resolved pursuant to subsection (h), the performance by the Inspector General of the Intelligence Community of any duty, responsibility, or function regarding an element of the intelligence community shall not be construed to modify or affect the duties and responsibilities of any other inspector general having duties and responsibilities relating to such element.

''(m) SEPARATE BUDGET ACCOUNT.—The Director of National Intelligence shall, in accordance with procedures issued by the Director in consultation with the congressional intelligence committees, include in the National Intelligence Program budget a separate account for the Office of the Inspector General of the Intelligence Community.

''(n) BUDGET.—(1) For each fiscal year, the Inspector General of the Intelligence Community shall transmit a budget estimate and request to the Director of National Intelligence that specifies for such fiscal year—

''(A) the aggregate amount requested for the operations of the Inspector General;

''(B) the amount requested for all training requirements of the Inspector General, including a certification from the Inspector General that the amount requested is sufficient to fund all training requirements for the Office of the Inspector General; and

''(C) the amount requested to support the Council of the Inspectors General on Integrity and Efficiency, including a justification for such amount.

''(2) In transmitting a proposed budget to the President for a fiscal year, the Director of National Intelligence shall include for such fiscal year—

''(A) the aggregate amount requested for the Inspector General of the Intelligence Community;

''(B) the amount requested for Inspector General training;

''(C) the amount requested to support the Council of the Inspectors General on Integrity and Efficiency; and

''(D) the comments of the Inspector General, if any, with respect to such proposed budget.

''(3) The Director of National Intelligence shall submit to the congressional intelligence committees, the Committee on Appropriations of the Senate, and the Committee on Appropriations of the House of Representatives for each fiscal year—

''(A) a separate statement of the budget estimate transmitted pursuant to paragraph (1);

''(B) the amount requested by the Director for the Inspector General pursuant to paragraph (2)(A);

''(C) the amount requested by the Director for the training of personnel of the Office of the Inspector General pursuant to paragraph (2)(B);

''(D) the amount requested by the Director for support for the Council of the Inspectors General on Integrity and Efficiency pursuant to paragraph (2)(C); and

''(E) the comments of the Inspector General under paragraph (2)(D), if any, on the amounts requested pursuant to paragraph (2), including whether such amounts would substantially inhibit the Inspector General from performing the duties of the Office of the Inspector General.''.

(2) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of the National Security Act of 1947, as amended by section 347 of this Act, is further amended by inserting after the item relating to section 103G the following new item:

''Sec. 103H. Inspector General of the Intelligence Community.''.

(b) PAY OF INSPECTOR GENERAL.—Subparagraph (A) of section 4(a)(3) of the Inspector General Reform Act of 2008 (Public Law 110–409; 5 U.S.C. App. note) is amended by inserting ''the Inspector General of the Intelligence Community,'' after ''basic pay of''.

(c) CONSTRUCTION.—Nothing in the amendment made by subsection (a)(1) shall be construed to alter the duties and responsibilities of the General Counsel of the Office of the Director of National Intelligence.

(d) REPEAL OF SUPERSEDED AUTHORITY TO ESTABLISH POSITION.—Section 8K of the Inspector General Act of 1978 (5 U.S.C. App.) shall be repealed on the date that the President appoints, with the advice and consent of the Senate, the first individual to serve as Inspector General for the Intelligence Community pursuant to section 103H of the National Security Act of 1947, as added by subsection (a), and such individual assumes the duties of the Inspector General.

SEC. 406. CHIEF FINANCIAL OFFICER OF THE INTELLIGENCE COMMUNITY.

(a) ESTABLISHMENT.—Title I of the National Security Act of 1947 (50 U.S.C. 402 et seq.), as amended by section 405 of this Act, is further amended by inserting after section 103H, as added by section 405(a)(1), the following new section:

''CHIEF FINANCIAL OFFICER OF THE INTELLIGENCE COMMUNITY

''SEC. 103I. (a) CHIEF FINANCIAL OFFICER OF THE INTELLIGENCE COMMUNITY.—To assist the Director of National Intelligence in carrying out the responsibilities of the Director under this Act and other applicable provisions of law, there is within the Office of the Director of National Intelligence a Chief Financial Officer of the Intelligence Community who shall be appointed by the Director.

''(b) DUTIES AND RESPONSIBILITIES.—Subject to the direction of the Director of National Intelligence, the Chief Financial Officer of the Intelligence Community shall—

''(1) serve as the principal advisor to the Director of National Intelligence and the Principal Deputy Director of National Intelligence on the management and allocation of intelligence community budgetary resources;

''(2) participate in overseeing a comprehensive and integrated strategic process for resource management within the intelligence community;

''(3) ensure that the strategic plan of the Director of National Intelligence—

''(A) is based on budgetary constraints as specified in the Future Year Intelligence Plans and Long-term Budget Projections required under section 506G; and

''(B) contains specific goals and objectives to support a performance-based budget;

''(4) prior to the obligation or expenditure of funds for the acquisition of any major system pursuant to a Milestone A or Milestone B decision, receive verification from appropriate authorities that the national requirements for meeting the strategic plan of the Director have been established, and that such requirements are prioritized based on budgetary constraints as specified in the Future Year Intelligence Plans and the Long-term Budget Projections for such major system required under section 506G;

''(5) ensure that the collection architectures of the Director are based on budgetary constraints as specified in the Future Year Intelligence Plans and the Long-term Budget Projections required under section 506G;

''(6) coordinate or approve representations made to Congress by the intelligence community regarding National Intelligence Program budgetary resources;

''(7) participate in key mission requirements, acquisitions, or architectural boards formed within or by the Office of the Director of National Intelligence; and

''(8) perform such other duties as may be prescribed by the Director of National Intelligence.

''(c) OTHER LAW.—The Chief Financial Officer of the Intelligence Community shall serve as the Chief Financial Officer of the intelligence community and, to the extent applicable, shall have the duties, responsibilities, and authorities specified in chapter 9 of title 31, United States Code.

''(d) PROHIBITION ON SIMULTANEOUS SERVICE AS OTHER CHIEF FINANCIAL OFFICER.—An individual serving in the position of Chief Financial Officer of the Intelligence Community may not, while so serving, serve as the chief financial officer of any other department or agency, or component thereof, of the United States Government.

''(e) DEFINITIONS.—In this section:

''(1) The term 'major system' has the meaning given that term in section 506A(e).

''(2) The term 'Milestone A' has the meaning given that term in section 506G(f).

''(3) The term 'Milestone B' has the meaning given that term in section 506C(e).''.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of the National Security Act of 1947, as amended by section 405(a), is further amended by inserting after the item relating to section 103H,

as added by section 405(a)(2), the following new item:

''Sec. 103I. Chief Financial Officer of the Intelligence Community.''.

SEC. 407. LEADERSHIP AND LOCATION OF CERTAIN OFFICES AND OFFICIALS.

(a) NATIONAL COUNTER PROLIFERATION CENTER.—Section 119A(a) of the National Security Act of 1947 (50 U.S.C. 404o–1(a)) is amended—

(1) by striking ''Not later than 18 months after the date of the enactment of the National Security Intelligence Reform Act of 2004, the'' and inserting ''(1) The''; and

(2) by adding at the end the following new paragraphs:

''(2) The head of the National Counter Proliferation Center shall be the Director of the National Counter Proliferation Center, who shall be appointed by the Director of National Intelligence.

''(3) The National Counter Proliferation Center shall be located within the Office of the Director of National Intelligence.''.

(b) OFFICERS.—Section 103(c) of that Act (50 U.S.C. 403–3(c)) is amended—

(1) by redesignating paragraph (9) as paragraph (14); and

(2) by inserting after paragraph (8) the following new paragraphs:

''(9) The Chief Information Officer of the Intelligence Community.

''(10) The Inspector General of the Intelligence Community.

''(11) The Director of the National Counterterrorism Center.

''(12) The Director of the National Counter Proliferation Center.

''(13) The Chief Financial Officer of the Intelligence Community.''.

SEC. 408. PROTECTION OF CERTAIN FILES OF THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE.

(a) IN GENERAL.—Title VII of the National Security Act of 1947 (50 U.S.C. 431 et seq.) is amended by adding at the end the following new section:

''PROTECTION OF CERTAIN FILES OF THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

''SEC. 706. (a) INAPPLICABILITY OF FOIA TO EXEMPTED OPERATIONAL FILES PROVIDED TO ODNI.—(1) Subject to paragraph (2), the provisions of section 552 of title 5, United States Code, that require search, review, publication, or disclosure of a record shall not apply to a record provided to the Office of the Director of National Intelligence by an element of the intelligence community from the exempted operational files of such element.

''(2) Paragraph (1) shall not apply with respect to a record of the Office that—

''(A) contains information derived or disseminated from an exempted operational file, unless such record is created by the Office for the sole purpose of organizing such exempted operational file for use by the Office;

''(B) is disseminated by the Office to a person other than an officer, employee, or contractor of the Office; or

''(C) is no longer designated as an exempted operational file in accordance with this title.

''(b) EFFECT OF PROVIDING FILES TO ODNI.—Notwithstanding any other provision of this title, an exempted operational file that is provided to the Office by an element of the intelligence community shall not be subject to the provisions of section 552 of title 5, United States Code, that require search, review, publication, or disclosure of a record solely because such element provides such exempted operational file to the Office.

''(c) SEARCH AND REVIEW FOR CERTAIN PURPOSES.—Notwithstanding subsection (a) or (b), an exempted operational file shall continue to be subject to search and review for information concerning any of the following:

''(1) United States citizens or aliens lawfully admitted for permanent residence who have requested information on themselves pursuant to the provisions of section 552 or 552a of title 5, United States Code.

''(2) Any special activity the existence of which is not exempt from disclosure under the provisions of section 552 of title 5, United States Code.

''(3) The specific subject matter of an investigation for any impropriety or violation of law, Executive order, or Presidential directive, in the conduct of an intelligence activity by any of the following:

''(A) The Select Committee on Intelligence of the Senate.

''(B) The Permanent Select Committee on Intelligence of the House of Representatives.

''(C) The Intelligence Oversight Board.

''(D) The Department of Justice.

''(E) The Office of the Director of National Intelligence.

''(F) The Office of the Inspector General of the Intelligence Community.

''(d) DECENNIAL REVIEW OF EXEMPTED OPERATIONAL FILES.—(1) Not less than once every 10 years, the Director of National Intelligence shall review the exemptions in force under subsection (a) to determine whether such exemptions may be removed from any category of exempted files or any portion thereof.

''(2) The review required by paragraph (1) shall include consideration of the historical value or other public interest in the subject matter of the particular category of files or portions thereof and the potential for declassifying a significant part of the information contained therein.

''(3) A complainant that alleges that the Director of National Intelligence has improperly withheld records because of failure to comply with this subsection may seek judicial review in the district court of the United States of the district in which any of the parties reside, or in the District of Columbia. In such a proceeding, the court's review shall be limited to determining the following:

''(A) Whether the Director has conducted the review required by paragraph (1) before the expiration of the 10-year period beginning on the date of the enactment of the Intelligence Authorization Act for Fiscal Year 2010 or before the expiration of the 10-year period beginning on the date of the most recent review.

''(B) Whether the Director of National Intelligence, in fact, considered the criteria set forth in paragraph (2) in conducting the required review.

''(e) SUPERSEDURE OF OTHER LAWS.—The provisions of this section may not be superseded except by a provision of law that is enacted after the date of the enactment of this section and that specifically cites and repeals or modifies such provisions.

''(f) ALLEGATION; IMPROPER WITHHOLDING OF RECORDS; JUDICIAL REVIEW.—(1) Except as provided in paragraph (2), whenever any person who has requested agency records under section 552 of title 5, United States Code, alleges that the Office has withheld records improperly because of failure to comply with any provision of this section, judicial review shall be available under the terms set forth in section 552(a)(4)(B) of title 5, United States Code.

''(2) Judicial review shall not be available in the manner provided for under paragraph (1) as follows:

''(A) In any case in which information specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign relations is filed with, or produced for, the court by the Office, such information shall be examined ex parte, in camera by the court.

''(B) The court shall determine, to the fullest extent practicable, the issues of fact based on sworn written submissions of the parties.

''(C)(i) When a complainant alleges that requested records were improperly withheld because of improper exemption of operational files, the Office may meet the burden of the Office under section 552(a)(4)(B) of title 5, United States Code, by demonstrating to the court by sworn written submission that exempted files likely to contain responsive records are records provided to the Office by an element of the intelligence community from the exempted operational files of such element.

''(ii) The court may not order the Office to review the content of any exempted file in order to make the demonstration required under clause (i), unless the complainant disputes the Office's showing with a sworn written submission based on personal knowledge or otherwise admissible evidence.

''(D) In proceedings under subparagraph (C), a party may not obtain discovery pursuant to rules 26 through 36 of the Federal Rules of Civil Procedure, except that requests for admissions may be made pursuant to rules 26 and 36 of the Federal Rules of Civil Procedure.

''(E) If the court finds under this subsection that the Office has improperly withheld requested records because of failure to comply with any provision of this section, the court shall order the Office to search and review each appropriate exempted file for the requested records and make such records, or portions thereof, available in accordance with the provisions of section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act), and such order shall be the exclusive remedy for failure to comply with this section.

''(F) If at any time following the filing of a complaint pursuant to this paragraph the Office agrees to search each appropriate exempted file for the requested records, the court shall dismiss the claim based upon such complaint.

''(g) DEFINITIONS.—In this section:

''(1) The term 'exempted operational file' means a file of an element of the intelligence community that, in accordance with this title, is exempted from the provisions of section 552 of title 5, United States Code, that require search, review, publication, or disclosure of such file.

''(2) Except as otherwise specifically provided, the term 'Office' means the Office of the Director of National Intelligence.''.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of the National Security Act of 1947, as amended by section 406(b) of this Act, is further amended by inserting after the item relating to section 705 the following new item:

''Sec. 706. Protection of certain files of the Office of the Director of National Intelligence.''.

SEC. 409. COUNTERINTELLIGENCE INITIATIVES FOR THE INTELLIGENCE COMMUNITY.

Section 1102 of the National Security Act of 1947 (50 U.S.C. 442a) is amended—

(1) in subsection (a)—

(A) by striking paragraph (2); and

(B) by striking ''(1) In'' and inserting ''In''; and

(2) in subsection (c)—

(A) by striking paragraph (2); and

(B) by striking ''(1) The'' and inserting ''The''.

SEC. 410. INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT TO ADVISORY COMMITTEES OF THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE.

(a) IN GENERAL.—Section 4(b) of the Federal Advisory Committee Act (5 U.S.C. App.) is amended—

(1) in paragraph (1), by striking ''or'';

(2) in paragraph (2), by striking the period and inserting ''; or''; and

(3) by adding at the end the following new paragraph:

''(3) the Office of the Director of National Intelligence, if the Director of National Intelligence determines that for reasons of national security such advisory committee cannot comply with the requirements of this Act.''.

(b) ANNUAL REPORT.—

(1) IN GENERAL.—The Director of National Intelligence and the Director of the Central Intelligence Agency shall each submit to the congressional intelligence committees an annual report on advisory committees created by each such Director. Each report shall include—

(A) a description of each such advisory committee, including the subject matter of the committee; and

(B) a list of members of each such advisory committee.

(2) REPORT ON REASONS FOR ODNI EXCLUSION OF ADVISORY COMMITTEE FROM FACA.—Each report submitted by the Director of National Intelligence in accordance with paragraph (1) shall include the reasons for a determination by the Director under section 4(b)(3) of the Federal Advisory Committee Act (5 U.S.C. App.), as added by subsection (a) of this section, that an advisory committee cannot comply with the requirements of such Act.

SEC. 411. MEMBERSHIP OF THE DIRECTOR OF NATIONAL INTELLIGENCE ON THE TRANSPORTATION SECURITY OVERSIGHT BOARD.

Subparagraph (F) of section 115(b)(1) of title 49, United States Code, is amended to read as follows:

''(F) The Director of National Intelligence, or the Director's designee.''.

SEC. 412. REPEAL OF CERTAIN AUTHORITIES RELATING TO THE OFFICE OF THE NATIONAL COUNTERINTELLIGENCE EXECUTIVE.

(a) REPEAL OF CERTAIN AUTHORITIES.—Section 904 of the Counterintelligence Enhancement Act of 2002 (50 U.S.C. 402c) is amended—

(1) by striking subsections (d), (h), (i), and (j);

(2) by redesignating subsections (e), (f), (g), (k), (l), and (m) as subsections (d), (e), (f), (g), (h), and (i), respectively; and

(3) in subsection (f), as redesignated by paragraph (2), by striking paragraphs (3) and (4).

(b) CONFORMING AMENDMENTS.—Such section 904 is further amended—

(1) in subsection (d), as redesignated by subsection (a)(2) of this section, by striking ''subsection (f)'' each place it appears in paragraphs (1) and (2) and inserting ''subsection (e)''; and

(2) in subsection (e), as so redesignated—

(A) in paragraph (1), by striking ''subsection (e)(1)'' and inserting ''subsection (d)(1)''; and

(B) in paragraph (2), by striking ''subsection (e)(2)'' and inserting ''subsection (d)(2)''.

SEC. 413. MISUSE OF THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE NAME, INITIALS, OR SEAL.

(a) PROHIBITION.—Title XI of the National Security Act of 1947 (50 U.S.C. 442 et seq.) is amended by adding at the end the following new section:

''MISUSE OF THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE NAME, INITIALS, OR SEAL

''SEC. 1103. (a) PROHIBITED ACTS.—No person may, except with the written permission of the Director of National Intelligence, or a designee of the Director, knowingly use the words 'Office of the Director of National Intelligence', the initials 'ODNI', the seal of the Office of the Director of National Intelligence, or any colorable imitation of such words, initials, or seal in connection with any merchandise, impersonation, solicitation, or commercial activity in a manner reasonably calculated to convey the impression that such use is approved, endorsed, or authorized by the Director of National Intelligence.

''(b) INJUNCTION.—Whenever it appears to the Attorney General that any person is engaged or is about to engage in an act or practice which constitutes or will constitute conduct prohibited by subsection (a), the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin such act or practice. Such court shall proceed as soon as practicable to the hearing and determination of such action and may, at any time before final determination, enter such restraining orders or prohibitions, or take such other action as is warranted, to prevent injury to the United States or to any person or class of persons for whose protection the action is brought.''.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of such Act, as amended by section 408 of this Act, is further amended by inserting after the item relating to section 1102 the following new item:

''Sec. 1103. Misuse of the Office of the Director of National Intelligence name, initials, or seal.''.

SEC. 414. PLAN TO IMPLEMENT RECOMMENDATIONS OF THE DATA CENTER ENERGY EFFICIENCY REPORTS.

(a) PLAN.—The Director of National Intelligence shall develop a plan to implement the recommendations of the report submitted to Congress under section 1 of the Act entitled ''An Act to study and promote the use of energy efficient computer servers in the United States'' (Public Law 109–431; 120 Stat. 2920) across the intelligence community.

(b) REPORT.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Director of National Intelligence shall submit to the congressional intelligence committees a report containing the plan developed under subsection (a).

(2) FORM.—The report required under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

SEC. 415. DIRECTOR OF NATIONAL INTELLIGENCE SUPPORT FOR REVIEWS OF INTERNATIONAL TRAFFIC IN ARMS REGULATIONS AND EXPORT ADMINISTRATION REGULATIONS.

The Director of National Intelligence may provide support for any review conducted by a department or agency of the United States Government of the International Traffic in Arms Regulations or Export Administration Regulations, including a review of technologies and goods on the United States Munitions List and Commerce Control List that may warrant controls that are different or additional to the controls such technologies and goods are subject to at the time of such review.

Subtitle B—Central Intelligence Agency

SEC. 421. ADDITIONAL FUNCTIONS AND AUTHORITIES FOR PROTECTIVE PERSONNEL OF THE CENTRAL INTELLIGENCE AGENCY.

Section 5(a)(4) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403f(a)(4)) is amended—

(1) by striking ''and the protection'' and inserting ''the protection''; and

(2) by inserting before the semicolon the following: '', and the protection of the Director of National Intelligence and such personnel of the Office of the Director of National Intelligence as the Director of National Intelligence may designate''.

SEC. 422. APPEALS FROM DECISIONS INVOLVING CONTRACTS OF THE CENTRAL INTELLIGENCE AGENCY.

Section 8(d) of the Contract Disputes Act of 1978 (41 U.S.C. 607(d)) is amended by adding at the end ''Notwithstanding any other provision of this section and any other provision of law, an appeal from a decision of a contracting officer of the Central Intelligence Agency relative to a contract made by that Agency may be filed with whichever of the Armed Services Board of Contract Appeals or the Civilian Board of Contract Appeals is specified by such contracting officer as the Board to which such an appeal may be made and such Board shall have jurisdiction to decide that appeal.''.

SEC. 423. DEPUTY DIRECTOR OF THE CENTRAL INTELLIGENCE AGENCY.

(a) ESTABLISHMENT AND DUTIES OF DEPUTY DIRECTOR OF THE CIA.—Title I of the National Security Act of 1947 (50 U.S.C. 402 et seq.), as amended by section 406 of this Act, is further amended by inserting after section 104A the following new section:

''DEPUTY DIRECTOR OF THE CENTRAL INTELLIGENCE AGENCY

''SEC. 104B. (a) DEPUTY DIRECTOR OF THE CENTRAL INTELLIGENCE AGENCY.—There is a Deputy Director of the Central Intelligence Agency who shall be appointed by the President.

''(b) DUTIES.—The Deputy Director of the Central Intelligence Agency shall—

''(1) assist the Director of the Central Intelligence Agency in carrying out the duties and responsibilities of the Director of the Central Intelligence Agency; and

''(2) during the absence or disability of the Director of the Central Intelligence Agency, or during a vacancy in the position of Director of the Central Intelligence Agency, act for and exercise the powers of the Director of the Central Intelligence Agency.''.

(b) CONFORMING AMENDMENTS.—

(1) EXECUTIVE SCHEDULE III.—Section 5314 of title 5, United States Code, is amended by striking ''Deputy Directors of Central Intelligence (2)'' and inserting ''Deputy Director of the Central Intelligence Agency''.

(2) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of the National Security Act of 1947, as amended by section 414 of this Act, is further amended by inserting after the item relating to section 104A the following new item:

''Sec. 104B. Deputy Director of the Central Intelligence Agency.''.

(c) APPLICABILITY.—The amendments made by this section shall apply on the earlier of—

(1) the date of the appointment by the President of an individual to serve as Deputy Director of the Central Intelligence Agency pursuant to section 104B of the National Security Act of 1947, as added by subsection (a), except that the individual administratively performing the duties of the Deputy Director of the Central Intelligence Agency as of the date of the enactment of this Act may continue to perform such duties until the individual appointed to the position of Deputy

Director of the Central Intelligence Agency assumes the duties of such position; or

(2) the date of the cessation of the performance of the duties of the Deputy Director of the Central Intelligence Agency by the individual administratively performing such duties as of the date of the enactment of this Act.

SEC. 424. AUTHORITY TO AUTHORIZE TRAVEL ON A COMMON CARRIER.

Subsection (b) of section 116 of the National Security Act of 1947 (50 U.S.C. 404k) is amended by striking the period at the end and inserting ''. who may delegate such authority to other appropriate officials of the Central Intelligence Agency.''.

SEC. 425. INSPECTOR GENERAL FOR THE CENTRAL INTELLIGENCE AGENCY.

(a) APPOINTMENT AND QUALIFICATIONS OF THE INSPECTOR GENERAL.—Paragraph (1) of section 17(b) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q(b)) is amended by striking the second and third sentences and inserting ''This appointment shall be made without regard to political affiliation and shall be on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigation. Such appointment shall also be made on the basis of compliance with the security standards of the Agency and prior experience in the field of foreign intelligence.''.

(b) REMOVAL OF THE INSPECTOR GENERAL.—Paragraph (6) of section 17(b) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q(b)) is amended—

(1) by striking ''immediately''; and

(2) by striking the period at the end and inserting ''not later than 30 days prior to the effective date of such removal. Nothing in this paragraph shall be construed to prohibit a personnel action otherwise authorized by law, other than transfer or removal.''.

(c) APPLICATION OF SEMIANNUAL REPORTING REQUIREMENTS WITH RESPECT TO REVIEW REPORTS.—Paragraph (1) of section 17(d) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q(d)) is amended in the matter preceding subparagraph (A) by inserting ''review,'' after ''investigation,''.

(d) PROTECTION AGAINST REPRISALS.—Subparagraph (B) of section 17(e)(3) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q(e)(3)) is amended by inserting ''or providing such information'' after ''making such complaint''.

(e) INSPECTOR GENERAL SUBPOENA POWER.—Subparagraph (A) of section 17(e)(5) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q(e)(5)) is amended by inserting ''in any medium (including electronically stored information or any tangible thing)'' after ''other data''.

(f) OTHER ADMINISTRATIVE AUTHORITIES.—

(1) IN GENERAL.—Subsection (e) of section 17 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q), as amended by subsections (d) and (e) of this section, is further amended—

(A) by redesignating paragraph (8) as subparagraph (9);

(B) in paragraph (9), as so redesignated—

(i) by striking ''Subject to the concurrence of the Director, the'' and inserting ''The''; and

(ii) by adding at the end the following: ''Consistent with budgetary and personnel resources allocated by the Director, the Inspector General has final approval of—

''(A) the selection of internal and external candidates for employment with the Office of Inspector General; and

''(B) all other personnel decisions concerning personnel permanently assigned to the Office of Inspector General, including selection and appointment to the Senior Intelligence Service, but excluding all security-based determinations that are not within the authority of a head of other Central Intelligence Agency offices.''; and

(C) by inserting after paragraph (7) the following new paragraph:

''(8)(A) The Inspector General shall—

''(i) appoint a Counsel to the Inspector General who shall report to the Inspector General; or

''(ii) obtain the services of a counsel appointed by and directly reporting to another Inspector General or the Council of the Inspectors General on Integrity and Efficiency on a reimbursable basis.

''(B) The counsel appointed or obtained under subparagraph (A) shall perform such functions as the Inspector General may prescribe.''.

(2) CONSTRUCTION.—Nothing in the amendment made by paragraph (1)(C) shall be construed to alter the duties and responsibilities of the General Counsel of the Central Intelligence Agency.

SEC. 426. BUDGET OF THE INSPECTOR GENERAL FOR THE CENTRAL INTELLIGENCE AGENCY.

Subsection (f) of section 17 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q) is amended—

(1) by inserting ''(1)'' before ''Beginning''; and

(2) by adding at the end the following new paragraph:

''(2) For each fiscal year, the Inspector General shall transmit a budget estimate and request through the Director to the Director of National Intelligence that specifies for such fiscal year—

''(A) the aggregate amount requested for the operations of the Inspector General;

''(B) the amount requested for all training requirements of the Inspector General, including a certification from the Inspector General that the amount requested is sufficient to fund all training requirements for the Office; and

''(C) the amount requested to support the Council of the Inspectors General on Integrity and Efficiency, including a justification for such amount.

''(3) In transmitting a proposed budget to the President for a fiscal year, the Director of National Intelligence shall include for such fiscal year—

''(A) the aggregate amount requested for the Inspector General of the Central Intelligence Agency;

''(B) the amount requested for Inspector General training;

''(C) the amount requested to support the Council of the Inspectors General on Integrity and Efficiency; and

''(D) the comments of the Inspector General, if any, with respect to such proposed budget.

''(4) The Director of National Intelligence shall submit to the Committee on Appropriations and the Select Committee on Intelligence of the Senate and the Committee on Appropriations and the Permanent Select Committee on Intelligence of the House of Representatives for each fiscal year—

''(A) a separate statement of the budget estimate transmitted pursuant to paragraph (2);

''(B) the amount requested by the Director of National Intelligence for the Inspector General pursuant to paragraph (3)(A);

''(C) the amount requested by the Director of National Intelligence for training of personnel of the Office of the Inspector General pursuant to paragraph (3)(B);

''(D) the amount requested by the Director of National Intelligence for support for the Council of the Inspectors General on Integrity and Efficiency pursuant to paragraph (3)(C); and

''(E) the comments of the Inspector General under paragraph (3)(D), if any, on the amounts requested pursuant to paragraph (3), including whether such amounts would substantially inhibit the Inspector General from performing the duties of the Office.''.

SEC. 427. PUBLIC AVAILABILITY OF UNCLASSIFIED VERSIONS OF CERTAIN INTELLIGENCE PRODUCTS.

The Director of the Central Intelligence Agency shall make publicly available an unclassified version of any memoranda or finished intelligence products assessing the—

(1) information gained from high-value detainee reporting; and

(2) dated April 3, 2003, July 15, 2004, March 2, 2005, and June 1, 2005.

Subtitle C—Defense Intelligence Components

SEC. 431. INSPECTOR GENERAL MATTERS.

(a) COVERAGE UNDER INSPECTOR GENERAL ACT OF 1978.—Subsection (a)(2) of section 8G of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by inserting ''the Defense Intelligence Agency,'' after ''the Corporation for Public Broadcasting,'';

(2) by inserting ''the National Geospatial-Intelligence Agency,'' after ''the National Endowment for the Humanities,''; and

(3) by inserting ''the National Reconnaissance Office, the National Security Agency,'' after ''the National Labor Relations Board,''.

(b) CERTAIN DESIGNATIONS UNDER INSPECTOR GENERAL ACT OF 1978.—Subsection (a) of section 8H of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by adding at the end the following new paragraph:

''(3) The Inspectors General of the Defense Intelligence Agency, the National Geospatial-Intelligence Agency, the National Reconnaissance Office, and the National Security Agency shall be designees of the Inspector General of the Department of Defense for purposes of this section.''.

(c) POWER OF HEADS OF ELEMENTS OVER INVESTIGATIONS.—Subsection (d) of section 8G of such Act (5 U.S.C. App.) is amended—

(1) by inserting ''(1)'' after ''(d)'';

(2) in the second sentence of paragraph (1), as designated by paragraph (1) of this subsection, by striking ''The head'' and inserting ''Except as provided in paragraph (2), the head''; and

(3) by adding at the end the following new paragraph:

''(2)(A) The Secretary of Defense, in consultation with the Director of National Intelligence, may prohibit the inspector general of an element of the intelligence community specified in subparagraph (D) from initiating, carrying out, or completing any audit or investigation if the Secretary determines that the prohibition is necessary to protect vital national security interests of the United States.

''(B) If the Secretary exercises the authority under subparagraph (A), the Secretary shall submit to the committees of Congress specified in subparagraph (E) an appropriately classified statement of the reasons for the exercise of such authority not later than 7 days after the exercise of such authority.

''(C) At the same time the Secretary submits under subparagraph (B) a statement on the exercise of the authority in subparagraph (A) to the committees of Congress specified in subparagraph (E), the Secretary shall notify the inspector general of such element of the submittal of such statement and, to the extent consistent with the protection of intelligence sources and methods, provide such inspector general with a copy of such statement. Such inspector general may submit to such committees of Congress any comments on a notice or statement received by the inspector general under this subparagraph that the inspector general considers appropriate.

''(D) The elements of the intelligence community specified in this subparagraph are as follows:

''(i) The Defense Intelligence Agency.

''(ii) The National Geospatial-Intelligence Agency.

''(iii) The National Reconnaissance Office.

''(iv) The National Security Agency.

''(E) The committees of Congress specified in this subparagraph are—

''(i) the Committee on Armed Services and the Select Committee on Intelligence of the Senate; and

''(ii) the Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives.''.

SEC. 432. CLARIFICATION OF NATIONAL SECURITY MISSIONS OF NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY FOR ANALYSIS AND DISSEMINATION OF CERTAIN INTELLIGENCE INFORMATION.

Section 442(a) of title 10, United States Code, is amended—

(1) by redesignating paragraph (2) as paragraph (3);

(2) by inserting after paragraph (1) the following new paragraph (2):

''(2)(A) As directed by the Director of National Intelligence, the National Geospatial-Intelligence Agency shall develop a system to facilitate the analysis, dissemination, and incorporation of likenesses, videos, and presentations produced by ground-based platforms, including handheld or clandestine photography taken by or on behalf of human intelligence collection organizations or available as open-source information, into the National System for Geospatial Intelligence.

''(B) The authority provided by this paragraph does not include authority for the National Geospatial-Intelligence Agency to manage tasking of handheld or clandestine photography taken by or on behalf of human intelligence collection organizations.''; and

(3) in paragraph (3), as so redesignated, by striking ''paragraph (1)'' and inserting ''paragraphs (1) and (2)''.

SEC. 433. DIRECTOR OF COMPLIANCE OF THE NATIONAL SECURITY AGENCY.

The National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended by inserting after the first section the following new section:

''SEC. 2. There is a Director of Compliance of the National Security Agency, who shall be appointed by the Director of the National Security Agency and who shall be responsible for the programs of compliance over mission activities of the National Security Agency.''.

Subtitle D—Other Elements

SEC. 441. CODIFICATION OF ADDITIONAL ELEMENTS OF THE INTELLIGENCE COMMUNITY.

Section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)) is amended—

(1) in subparagraph (H)—

(A) by inserting ''the Coast Guard,'' after ''the Marine Corps,''; and

(B) by inserting ''the Drug Enforcement Administration,'' after ''the Federal Bureau of Investigation,''; and

(2) in subparagraph (K), by striking '', including the Office of Intelligence of the Coast Guard''.

SEC. 442. AUTHORIZATION OF APPROPRIATIONS FOR COAST GUARD NATIONAL TACTICAL INTEGRATION OFFICE.

Title 14, United States Code, is amended—

(1) in paragraph (4) of section 93(a), by striking ''function'' and inserting ''function, including research, development, test, or evaluation related to intelligence systems and capabilities,''; and

(2) in paragraph (4) of section 662, by inserting ''intelligence systems and capabilities or'' after ''related to''.

SEC. 443. RETENTION AND RELOCATION BONUSES FOR THE FEDERAL BUREAU OF INVESTIGATION.

Section 5759 of title 5, United States Code, is amended—

(1) in subsection (a)(2), by striking ''is transferred to a different geographic area with a higher cost of living'' and inserting ''is subject to a mobility agreement and is transferred to a position in a different geographical area in which there is a shortage of critical skills'';

(2) in subsection (b)(2), by striking the period at the end and inserting '', including requirements for a bonus recipient's repayment of a bonus in circumstances determined by the Director of the Federal Bureau of Investigation.'';

(3) in subsection (c), by striking ''basic pay.'' and inserting ''annual rate of basic pay. The bonus may be paid in a lump sum or installments linked to completion of periods of service.''; and

(4) in subsection (d), by striking ''retention bonus'' and inserting ''bonus paid under this section''.

SEC. 444. EXTENSION OF THE AUTHORITY OF THE FEDERAL BUREAU OF INVESTIGATION TO WAIVE MANDATORY RETIREMENT PROVISIONS.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—Subsection (b) of section 8335 of title 5, United States Code, is amended—

(1) in the paragraph (2) enacted by section 112(a)(2) of the Department of Justice Appropriations Act, 2005 (title I of division B of Public Law 108–447; 118 Stat. 2868), by striking ''2009'' and inserting ''2011''; and

(2) by striking the paragraph (2) enacted by section 2005(a)(2) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 118 Stat. 3704).

(b) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—Subsection (b) of section 8425 of title 5, United States Code, is amended—

(1) in the paragraph (2) enacted by section 112(b)(2) of the Department of Justice Appropriations Act, 2005 (title I of division B of Public Law 108–447; 118 Stat. 2868), by striking ''2009'' and inserting ''2011''; and

(2) by striking the paragraph (2) enacted by section 2005(b)(2) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 118 Stat. 3704).

SEC. 445. REPORT AND ASSESSMENTS ON TRANSFORMATION OF THE INTELLIGENCE CAPABILITIES OF THE FEDERAL BUREAU OF INVESTIGATION.

(a) REPORT.—

(1) REQUIREMENT.—Not later than 180 days after the date of the enactment of this Act, the Director of the Federal Bureau of Investigation, in consultation with the Director of National Intelligence, shall submit to the congressional intelligence committees, the Committee on the Judiciary of the Senate, and the Committee on the Judiciary of the House of Representatives a report describing—

(A) a long-term vision for the intelligence capabilities of the National Security Branch of the Bureau;

(B) a strategic plan for the National Security Branch; and

(C) the progress made in advancing the capabilities of the National Security Branch.

(2) CONTENT.—The report required by paragraph (1) shall include—

(A) a description of the direction, strategy, and goals for improving the intelligence capabilities of the National Security Branch;

(B) a description of the intelligence and national security capabilities of the National Security Branch that will be fully functional within the five-year period beginning on the date on which the report is submitted;

(C) a description—

(i) of the internal reforms that were carried out at the National Security Branch during the two-year period ending on the date on which the report is submitted; and

(ii) of the manner in which such reforms have advanced the capabilities of the National Security Branch;

(D) an assessment of the effectiveness of the National Security Branch in performing tasks that are critical to the effective functioning of the National Security Branch as an intelligence agency, including—

(i) human intelligence collection, both within and outside the parameters of an existing case file or ongoing investigation, in a manner that protects civil liberties;

(ii) intelligence analysis, including the ability of the National Security Branch to produce, and provide policymakers with, information on national security threats to the United States;

(iii) management, including the ability of the National Security Branch to manage and develop human capital and implement an organizational structure that supports the objectives and strategies of the Branch;

(iv) integration of the National Security Branch into the intelligence community, including an ability to robustly share intelligence and effectively communicate and operate with appropriate Federal, State, local, and tribal partners;

(v) implementation of an infrastructure that supports the national security and intelligence missions of the National Security Branch, including proper information technology and facilities; and

(vi) reformation of the culture of the National Security Branch, including the integration by the Branch of intelligence analysts and other professional staff into intelligence collection operations and the success of the National Security Branch in ensuring that intelligence and threat information drive the operations of the Branch;

(E) performance metrics and specific annual timetables for advancing the performance of the tasks referred to in clauses (i) through (vi) of subparagraph (D) and a description of the activities being undertaken to ensure that the performance of the National Security Branch in carrying out such tasks improves; and

(F) an assessment of the effectiveness of the field office supervisory term limit policy of the Federal Bureau of Investigation that requires the mandatory reassignment of a supervisor of the Bureau after a specific term of years.

(b) ANNUAL ASSESSMENTS.—

(1) REQUIREMENT FOR ASSESSMENTS.—Not later than 180 days after the date on which the report required by subsection (a)(1) is submitted, and annually thereafter for five years, the Director of National Intelligence, in consultation with the Director of the Federal Bureau of Investigation, shall submit to the congressional intelligence committees, the Committee on the Judiciary of the Senate, and the Committee on the Judiciary of the House of Representatives an assessment of the performance of the National Security Branch in carrying out the tasks referred to in clauses (i) through (vi) of subsection (a)(2)(D) in comparison to such performance during previous years.

(2) CONSIDERATIONS.—In conducting each assessment required by paragraph (1), the Director of National Intelligence—

(A) shall use the performance metrics and specific annual timetables for carrying out such tasks referred to in subsection (a)(2)(E); and

(B) may request the assistance of any expert that the Director considers appropriate, including an inspector general of an appropriate department or agency.

TITLE V—REORGANIZATION OF THE DIPLOMATIC TELECOMMUNICATIONS SERVICE PROGRAM OFFICE

SEC. 501. REORGANIZATION OF THE DIPLOMATIC TELECOMMUNICATIONS SERVICE PROGRAM OFFICE.

(a) REORGANIZATION OF THE DIPLOMATIC TELECOMMUNICATIONS SERVICE PROGRAM OFFICE.—

(1) IN GENERAL.—Subtitle B of title III of the Intelligence Authorization Act for Fiscal Year 2001 (Public Law 106–567; 22 U.S.C. 7301 et seq.) is amended by striking sections 321, 322, 323, and 324, and inserting the following new sections:

"SEC. 321. DIPLOMATIC TELECOMMUNICATIONS SERVICE PROGRAM OFFICE.

''(a) REORGANIZATION.—The Diplomatic Telecommunications Service Program Office established pursuant to title V of Public Law 102–140 shall be reorganized in accordance with this subtitle.

''(b) DUTIES.—The duties of the DTS–PO include implementing a program for the establishment and maintenance of a DTS Network capable of providing multiple levels of service to meet the wide-ranging needs of all United States Government departments and agencies operating from diplomatic and consular facilities outside of the United States, including national security needs for secure, reliable, and robust communications capabilities.

"SEC. 322. ESTABLISHMENT OF THE DIPLOMATIC TELECOMMUNICATIONS SERVICE GOVERNANCE BOARD.

''(a) GOVERNANCE BOARD.—

''(1) ESTABLISHMENT.—There is established the Diplomatic Telecommunications Service Governance Board to direct and oversee the activities and performance of the DTS–PO.

''(2) EXECUTIVE AGENT.—

''(A) DESIGNATION.—The Director of the Office of Management and Budget shall designate, from among the departments and agencies of the United States Government that use the DTS Network, a department or agency as the DTS–PO Executive Agent.

''(B) DUTIES.—The Executive Agent designated under subparagraph (A) shall—

''(i) nominate a Director of the DTS–PO for approval by the Governance Board in accordance with subsection (e); and

''(ii) perform such other duties as established by the Governance Board in the determination of written implementing arrangements and other relevant and appropriate governance processes and procedures under paragraph (3).

''(3) REQUIREMENT FOR IMPLEMENTING ARRANGEMENTS.—Subject to the requirements of this subtitle, the Governance Board shall determine the written implementing arrangements and other relevant and appropriate governance processes and procedures to manage, oversee, resource, or otherwise administer the DTS–PO.

''(b) MEMBERSHIP.—

''(1) SELECTION.—The Director of the Office of Management and Budget shall designate from among the departments and agencies that use the DTS Network—

''(A) four departments and agencies to each appoint one voting member of the Governance Board from the personnel of such departments and agencies; and

''(B) any other departments and agencies that the Director considers appropriate to each appoint one nonvoting member of the Governance Board from the personnel of such departments and agencies.

''(2) VOTING AND NONVOTING MEMBERS.—The Governance Board shall consist of voting members and nonvoting members as follows:

''(A) VOTING MEMBERS.—The voting members shall consist of a Chair, who shall be designated by the Director of the Office of Management and Budget, and the four members appointed by departments and agencies designated under paragraph (1)(A).

''(B) NONVOTING MEMBERS.—The nonvoting members shall consist of the members appointed by departments and agencies designated under paragraph (1)(B) and shall act in an advisory capacity.

''(c) CHAIR DUTIES AND AUTHORITIES.—The Chair of the Governance Board shall—

''(1) preside over all meetings and deliberations of the Governance Board;

''(2) provide the Secretariat functions of the Governance Board; and

''(3) propose bylaws governing the operation of the Governance Board.

''(d) QUORUM, DECISIONS, MEETINGS.—A quorum of the Governance Board shall consist of the presence of the Chair and four voting members. The decisions of the Governance Board shall require a majority of the voting membership. The Chair shall convene a meeting of the Governance Board not less than four times each year to carry out the functions of the Governance Board. The Chair or any voting member may convene a meeting of the Governance Board.

''(e) GOVERNANCE BOARD DUTIES.—The Governance Board shall have the following duties with respect to the DTS–PO:

''(1) To approve and monitor the plans, services, priorities, policies, and pricing methodology of the DTS–PO for bandwidth costs and projects carried out at the request of a department or agency that uses the DTS Network.

''(2) To provide to the DTS–PO Executive Agent the recommendation of the Governance Board with respect to the approval, disapproval, or modification of each annual budget request for the DTS–PO, prior to the submission of any such request by the Executive Agent.

''(3) To review the performance of the DTS–PO against plans approved under paragraph (1) and the management activities and internal controls of the DTS–PO.

''(4) To require from the DTS–PO any plans, reports, documents, and records the Governance Board considers necessary to perform its oversight responsibilities.

''(5) To conduct and evaluate independent audits of the DTS–PO.

''(6) To approve or disapprove the nomination of the Director of the DTS–PO by the Executive Agent with a majority vote of the Governance Board.

''(7) To recommend to the Executive Agent the replacement of the Director of the DTS–PO with a majority vote of the Governance Board.

''(f) NATIONAL SECURITY INTERESTS.—The Governance Board shall ensure that those enhancements of, and the provision of service for, telecommunication capabilities that involve the national security interests of the United States receive the highest prioritization.

"SEC. 323. FUNDING OF THE DIPLOMATIC TELECOMMUNICATIONS SERVICE.

''(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for the operations, maintenance, development, enhancement, modernization, and investment costs of the DTS Network and the DTS–PO. Funds appropriated for allocation to the DTS–PO shall remain available to the DTS–PO for a period of two fiscal years.

''(b) FEES.—The DTS–PO shall charge a department or agency that uses the DTS Network for only those bandwidth costs attributable to such department or agency and for specific projects carried out at the request of such department or agency, pursuant to the pricing methodology for such bandwidth costs and such projects approved under section 322(e)(1), for which amounts have not been appropriated for allocation to the DTS–PO. The DTS–PO is authorized to directly receive payments from departments or agencies that use the DTS Network and to invoice such departments or agencies for the fees under this section either in advance of, or upon or after, providing the bandwidth or performing such projects. Such funds received from such departments or agencies shall remain available to the DTS–PO for a period of two fiscal years.

"SEC. 324. DEFINITIONS.

''In this subtitle:

''(1) DTS NETWORK.—The term 'DTS Network' means the worldwide telecommunications network supporting all United States Government agencies and departments operating from diplomatic and consular facilities outside of the United States.

''(2) DTS–PO.—The term 'DTS–PO' means the Diplomatic Telecommunications Service Program Office.

''(3) GOVERNANCE BOARD.—The term 'Governance Board' means the Diplomatic Telecommunications Service Governance Board established under section 322(a)(1).''.

(2) TABLE OF CONTENTS AMENDMENT.—The table of contents in section 1(b) of the Intelligence Authorization Act for Fiscal Year 2001 (Public Law 106–567; 114 Stat. 2831) is amended by striking the items relating to sections 321, 322, 323, and 324 and inserting the following new items:

''Sec. 321. Diplomatic Telecommunications Service Program Office.
''Sec. 322. Establishment of the Diplomatic Telecommunications Service Governance Board.
''Sec. 323. Funding of the Diplomatic Telecommunications Service.
''Sec. 324. Definitions.''.

(b) CONFORMING AMENDMENTS.—

(1) REPEAL OF SUSPENSION OF REORGANIZATION.—

(A) REPEAL.—The Intelligence Authorization Act for Fiscal Year 2002 (Public Law 107–108; 22 U.S.C. 7301 note) is amended by striking section 311.

(B) TABLE OF CONTENTS AMENDMENT.—The table of contents in section 1 of such Act is amended by striking the item relating to section 311.

(2) REPEAL OF REFORM.—

(A) REPEAL.—The Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (as enacted into law by section 1000(a)(7) of Public Law 106–113 and contained in appendix G of that Act; 113 Stat. 1501A–405) is amended by striking section 305.

(B) TABLE OF CONTENTS AMENDMENT.—The table of contents in section 2(b) of such Act is amended by striking the item related to section 305.

(3) REPEAL OF REPORTING REQUIREMENTS.—Section 507(b) of the National Security Act of 1947 (50 U.S.C. 415b(b)), as amended by section 351 of this Act, is further amended—

(A) by striking paragraph (3); and

(B) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

TITLE VI—FOREIGN INTELLIGENCE AND INFORMATION COMMISSION ACT

SEC. 601. SHORT TITLE.

This title may be cited as the ''Foreign Intelligence and Information Commission Act''.

SEC. 602. DEFINITIONS.

In this title:

(1) COMMISSION.—The term ''Commission'' means the Foreign Intelligence and Information Commission established in section 603(a).

(2) FOREIGN INTELLIGENCE; INTELLIGENCE.—The terms ''foreign intelligence'' and ''intelligence'' have the meaning given those terms

in section 3 of the National Security Act of 1947 (50 U.S.C. 401a).

(3) INFORMATION.—The term ''information'' includes information of relevance to the foreign policy of the United States collected and conveyed through diplomatic reporting and other reporting by personnel of the United States Government who are not employed by an element of the intelligence community, including public and open-source information.

SEC. 603. ESTABLISHMENT AND FUNCTIONS OF THE COMMISSION.

(a) ESTABLISHMENT.—There is established in the legislative branch a Foreign Intelligence and Information Commission.

(b) PURPOSE.—The purpose of the Commission is to evaluate systems and processes at the strategic, interagency level and provide recommendations accordingly, and not to seek to duplicate the functions of the Director of National Intelligence.

(c) FUNCTIONS.—The Commission shall—

(1) evaluate the current processes or systems for the strategic integration of the intelligence community, including the Open Source Center, and other elements of the United States Government, including the Department of State, with regard to the collection, reporting, and analysis of foreign intelligence and information;

(2) provide recommendations to improve or develop such processes or systems to integrate the intelligence community with other elements of the United States Government, potentially including the development of an interagency strategy that identifies—

(A) the collection, reporting, and analysis requirements of the United States Government;

(B) the elements of the United States Government best positioned to meet collection and reporting requirements, with regard to missions, comparative institutional advantages, and any other relevant factors; and

(C) interagency budget and resource allocations necessary to achieve such collection, reporting, and analytical requirements;

(3) evaluate the extent to which current intelligence collection, reporting, and analysis strategies are intended to provide global coverage and anticipate future threats, challenges, and crises;

(4) provide recommendations on how to incorporate into the interagency strategy the means to anticipate future threats, challenges, and crises, including by identifying and supporting collection, reporting, and analytical capabilities that are global in scope and directed at emerging, long-term, and strategic targets;

(5) provide recommendations on strategies for sustaining human and budgetary resources to effect the global collection and reporting missions identified in the interagency strategy, including the prepositioning of collection and reporting capabilities;

(6) provide recommendations for developing, clarifying, and, if necessary, bolstering current and future collection and reporting roles and capabilities of elements of the United States Government that are not elements of the intelligence community deployed in foreign countries;

(7) provide recommendations related to the role of individual country missions in contributing to the interagency strategy;

(8) evaluate the extent to which the establishment of new embassies and out-of-embassy posts are able to contribute to expanded global coverage and increased collection and reporting and provide recommendations related to the establishment of new embassies and out-of-embassy posts;

(9) provide recommendations on executive or legislative changes necessary to establish any new executive branch entity or to expand the authorities of any existing executive branch entity, as needed to improve the strategic integration referred to in paragraph (1) and develop and oversee the implementation of any interagency strategy;

(10) provide recommendations on processes for developing and presenting to Congress budget requests for each relevant element of the United States Government that reflect the allocations identified in the interagency strategy and for congressional oversight of the development and implementation of the strategy; and

(11) provide recommendations on any institutional reforms related to the collection and reporting roles of individual elements of the United States Government outside the intelligence community, as well as any budgetary, legislative, or other changes needed to achieve such reforms.

SEC. 604. MEMBERS AND STAFF OF THE COMMISSION.

(a) MEMBERS OF THE COMMISSION.—

(1) APPOINTMENT.—The Commission shall be composed of 10 members as follows:

(A) Two members appointed by the majority leader of the Senate.

(B) Two members appointed by the minority leader of the Senate.

(C) Two members appointed by the Speaker of the House of Representatives.

(D) Two members appointed by the minority leader of the House of Representatives.

(E) One nonvoting member appointed by the Director of National Intelligence.

(F) One nonvoting member appointed by the Secretary of State.

(2) SELECTION.—

(A) IN GENERAL.—Members of the Commission shall be individuals who—

(i) are not officers or employees of the United States Government or any State or local government; and

(ii) have knowledge and experience—

(I) in foreign information and intelligence collection, reporting, and analysis, including clandestine collection and classified analysis (such as experience in the intelligence community), diplomatic reporting and analysis, and collection of public and open-source information;

(II) in issues related to the national security and foreign policy of the United States gained by serving as a senior official of the Department of State, a member of the Foreign Service, an employee or officer of an appropriate department or agency of the United States, or an independent organization with expertise in the field of international affairs; or

(III) with foreign policy decision-making.

(B) DIVERSITY OF EXPERIENCE.—The individuals appointed to the Commission should be selected with a view to establishing diversity of experience with regard to various geographic regions, functions, and issues.

(3) CONSULTATION.—The Speaker and the minority leader of the House of Representatives, the majority leader and the minority leader of the Senate, the Director of National Intelligence, and the Secretary of State shall consult among themselves prior to the appointment of the members of the Commission in order to achieve, to the maximum extent possible, fair and equitable representation of various points of view with respect to the matters to be considered by the Commission in accordance with this title.

(4) TIME OF APPOINTMENT.—The appointments under subsection (a) shall be made—

(A) after the date on which funds are first appropriated for the Commission pursuant to section 609; and

(B) not later than 60 days after such date.

(5) TERM OF APPOINTMENT.—Members shall be appointed for the life of the Commission.

(6) VACANCIES.—Any vacancy of the Commission shall not affect the powers of the Commission and shall be filled in the manner in which the original appointment was made.

(7) CHAIR.—The voting members of the Commission shall designate one of the voting members to serve as the chair of the Commission.

(8) QUORUM.—Five voting members of the Commission shall constitute a quorum for purposes of transacting the business of the Commission.

(9) MEETINGS.—The Commission shall meet at the call of the chair and shall meet regularly, not less than once every 3 months, during the life of the Commission.

(b) STAFF.—

(1) IN GENERAL.—The chair of the Commission may, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and chapter 51 and subchapter III of chapter 53 of that title relating to classification of positions and General Schedule pay rates, appoint and terminate an executive director and, in consultation with the executive director, appoint and terminate such other additional personnel as may be necessary to enable the Commission to perform its duties. In addition to the executive director and one full-time support staff for the executive director, there shall be additional staff with relevant intelligence and foreign policy experience to support the work of the Commission.

(2) SELECTION OF THE EXECUTIVE DIRECTOR.—The executive director shall be selected with the approval of a majority of the voting members of the Commission.

(3) COMPENSATION.—

(A) EXECUTIVE DIRECTOR.—The executive director shall be compensated at the maximum annual rate payable for an employee of a standing committee of the Senate under section 105(e) of the Legislative Branch Appropriations Act, 1968 (2 U.S.C. 61–1(e)), as adjusted by any order of the President pro tempore of the Senate.

(B) STAFF.—The chair of the Commission may fix the compensation of other personnel of the Commission without regard to chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for such personnel may not exceed the maximum annual rate payable for an employee of a standing committee of the Senate under section 105(e) of the Legislative Branch Appropriations Act, 1968 (2 U.S.C. 61–1(e)), as adjusted by any order of the President pro tempore of the Senate.

(c) EXPERTS AND CONSULTANTS.—The Commission is authorized to procure temporary or intermittent services of experts and consultants as necessary to the extent authorized by section 3109 of title 5, United States Code, at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable under section 5376 of such title.

(d) STAFF AND SERVICES OF OTHER AGENCIES OR DEPARTMENTS OF THE UNITED STATES.—Upon the request of the Commission, the head of a department or agency of the United States may detail, on a reimbursable or nonreimbursable basis, any of the personnel of that department or agency to the Commission to assist the Commission in carrying out this title. The detail of any such personnel shall be without interruption or loss of civil service or Foreign Service status or privilege.

(e) SECURITY CLEARANCE.—The appropriate departments or agencies of the United States shall cooperate with the Commission in expeditiously providing to the members and staff of the Commission appropriate security clearances to the extent possible pursuant to existing procedures and requirements.

(f) REPORTS UNDER ETHICS IN GOVERNMENT ACT OF 1978.—Notwithstanding any other provision of law, for purposes of title I of the Ethics in Government Act of 1978 (5 U.S.C. App.), each member and staff of the Commission—

(1) shall be deemed to be an officer or employee of the Congress (as defined in section 109(13) of such title); and

(2) shall file any report required to be filed by such member or such staff (including by virtue of the application of paragraph (1)) under title I of the Ethics in Government Act of 1978 (5 U.S.C. App.) with the Secretary of the Senate.

SEC. 605. POWERS AND DUTIES OF THE COMMISSION.

(a) HEARINGS AND EVIDENCE.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this title.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any department or agency of the United States such information as the Commission considers necessary to carry out this title. Upon request of the chair of the Commission, the head of such department or agency shall furnish such information to the Commission, subject to applicable law.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as a department or agency of the United States.

(d) ADMINISTRATIVE SUPPORT.—The Administrator of the General Services Administration shall provide to the Commission on a reimbursable basis (or, in the discretion of the Administrator, on a nonreimbursable basis) such administrative support services as the Commission may request to carry out this title.

(e) ADMINISTRATIVE PROCEDURES.—The Commission may adopt such rules and regulations, relating to administrative procedure, as may be reasonably necessary to enable the Commission to carry out this title.

(f) TRAVEL.—

(1) IN GENERAL.—The members and staff of the Commission may, with the approval of the Commission, conduct such travel as is necessary to carry out this title.

(2) EXPENSES.—Members of the Commission shall serve without pay but shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(g) GIFTS.—No member or staff of the Commission may receive a gift or benefit by reason of the service of such member or staff to the Commission.

SEC. 606. REPORT OF THE COMMISSION.

(a) IN GENERAL.—

(1) INTERIM REPORT.—Not later than 300 days after the date on which all members of the Commission are appointed under section 604(a), the Commission shall submit to the congressional intelligence committees an interim report setting forth the preliminary evaluations and recommendations of the Commission described in section 603(c).

(2) FINAL REPORT.—Not later than 60 days after the date of the submission of the report required by paragraph (1), the Commission shall submit a final report setting forth the final evaluations and recommendations of the Commission described in section 603(c) to each of the following:

(A) The President.

(B) The Director of National Intelligence.

(C) The Secretary of State.

(D) The congressional intelligence committees.

(E) The Committee on Foreign Relations of the Senate.

(F) The Committee on Foreign Affairs of the House of Representatives.

(b) INDIVIDUAL OR DISSENTING VIEWS.—Each member of the Commission may include that member's individual or dissenting views in a report required by paragraph (1) or (2) of subsection (a).

(c) FORM OF REPORT.—The reports required by paragraphs (1) and (2) of subsection (a), including any finding or recommendation of such report, shall be submitted in unclassified form, but may include a classified annex.

SEC. 607. TERMINATION.

(a) IN GENERAL.—The Commission shall terminate on the date that is 60 days after the date of the submission of the report required by section 606(a)(2).

(b) TRANSFER OF RECORDS.—Upon the termination of the Commission under subsection (a), all records, files, documents, and other materials in the possession, custody, or control of the Commission shall be transferred to the Select Committee on Intelligence of the Senate and deemed to be records of such Committee.

SEC. 608. NONAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

SEC. 609. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated such sums as may be necessary to carry out this title.

(b) AVAILABILITY.—Amounts made available to the Commission pursuant to subsection (a) shall remain available until expended.

TITLE VII—OTHER MATTERS

SEC. 701. EXTENSION OF NATIONAL COMMISSION FOR THE REVIEW OF THE RESEARCH AND DEVELOPMENT PROGRAMS OF THE UNITED STATES INTELLIGENCE COMMUNITY.

(a) EXTENSION.—

(1) IN GENERAL.—Effective on the date on which funds are first appropriated pursuant to subsection (b)(1) and subject to paragraph (3), subsection (a) of section 1007 of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 50 U.S.C. 401 note) is amended by striking ''September 1, 2004,'' and inserting ''one year after the date on which all members of the Commission are appointed pursuant to section 701(a)(3) of the Intelligence Authorization Act for Fiscal Year 2010,''.

(2) APPLICABILITY OF AMENDMENT.—The amendment made by paragraph (1) shall take effect as if included in the enactment of such section 1007.

(3) COMMISSION MEMBERSHIP.—The membership of the National Commission for the Review of the Research and Development Programs of the United States Intelligence Community established under subsection (a) of section 1002 of such Act (Public Law 107–306; 50 U.S.C. 401 note) (referred to in this section as the ''Commission'') shall be considered vacant and new members shall be appointed in accordance with such section 1002, as amended by this section.

(4) CLARIFICATION OF DUTIES.—Section 1002(i) of such Act is amended in the matter preceding paragraph (1) by striking ''including—'' and inserting ''including advanced research and development programs and activities. Such review shall include—''.

(b) FUNDING.—

(1) IN GENERAL.—There is authorized to be appropriated such sums as may be necessary to carry out this section.

(2) AVAILABILITY.—Amounts made available to the Commission pursuant to paragraph (1) shall remain available until expended.

(3) REPEAL OF EXISTING FUNDING AUTHORITY.—Section 1010 of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 50 U.S.C. 401 note) is repealed.

(c) TECHNICAL AMENDMENTS.—

(1) DIRECTOR OF CENTRAL INTELLIGENCE.—The Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306) is amended by striking ''Director of Central Intelligence'' each place it appears and inserting ''Director of National Intelligence'' in the following provisions:

(A) Section 1002(h)(2).

(B) Section 1003(d)(1).

(C) Section 1006(a)(1).

(D) Section 1006(b).

(E) Section 1007(a).

(F) Section 1008.

(2) DEPUTY DIRECTOR OF CENTRAL INTELLIGENCE FOR COMMUNITY MANAGEMENT.—Paragraph (1) of section 1002(b) of such Act is amended by striking ''The Deputy Director of Central Intelligence for Community Management.'' and inserting ''The Principal Deputy Director of National Intelligence.''.

SEC. 702. CLASSIFICATION REVIEW OF EXECUTIVE BRANCH MATERIALS IN THE POSSESSION OF THE CONGRESSIONAL INTELLIGENCE COMMITTEES.

The Director of National Intelligence is authorized to conduct, at the request of one of the congressional intelligence committees and in accordance with procedures established by that committee, a classification review of materials in the possession of that committee that—

(1) are not less than 25 years old; and

(2) were created, or provided to that committee, by an entity in the executive branch.

TITLE VIII—TECHNICAL AMENDMENTS

SEC. 801. TECHNICAL AMENDMENTS TO THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended—

(1) in section 101—

(A) in subsection (a), by moving paragraph (7) two ems to the right; and

(B) by moving subsections (b) through (p) two ems to the right;

(2) in section 103, by redesignating subsection (i) as subsection (h);

(3) in section 109(a)—

(A) in paragraph (1), by striking ''section 112.;'' and inserting ''section 112;''; and

(B) in paragraph (2), by striking the second period;

(4) in section 301(1), by striking '''United States'' and all that follows through ''and 'State'' and inserting '''United States', 'person', 'weapon of mass destruction', and 'State'';

(5) in section 304(b), by striking ''subsection (a)(3)'' and inserting ''subsection (a)(2)''; and

(6) in section 502(a), by striking ''a annual'' and inserting ''an annual''.

SEC. 802. TECHNICAL AMENDMENTS TO THE CENTRAL INTELLIGENCE AGENCY ACT OF 1949.

The Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) is amended—

(1) in paragraph (1) of section 5(a), by striking ''authorized under paragraphs (2) and (3) of section 102(a), subsections (c)(7) and (d) of section 103, subsections (a) and (g) of section 104, and section 303 of the National Security Act of 1947 (50 U.S.C. 403(a)(2), (3), 403–3(c)(7), (d), 403–4(a), (g), and 405)'' and inserting ''authorized under section 104A of the National Security Act of 1947 (50 U.S.C. 403–4a).''; and

(2) in section 17(d)(3)(B)—

(A) in clause (i), by striking ''advise'' and inserting ''advice''; and

(B) by amending clause (ii) to read as follows:

''(ii) holds or held the position in the Agency, including such a position held on an acting basis, of—

''(I) Deputy Director;

''(II) Associate Deputy Director;

''(III) Director of the National Clandestine Service;

''(IV) Director of Intelligence;

''(V) Director of Support; or

''(VI) Director of Science and Technology.''.

SEC. 803. TECHNICAL AMENDMENTS TO TITLE 10, UNITED STATES CODE.

Section 528(c) of title 10, United States Code, is amended—

(1) in the heading, by striking ''ASSOCIATE DIRECTOR OF CIA FOR MILITARY AFFAIRS'' and inserting ''ASSOCIATE DIRECTOR OF MILITARY AFFAIRS, CIA''; and

(2) by striking ''Associate Director of the Central Intelligence Agency for Military Affairs'' and inserting ''Associate Director of Military Affairs, Central Intelligence Agency, or any successor position''.

SEC. 804. TECHNICAL AMENDMENTS TO THE NATIONAL SECURITY ACT OF 1947.

The National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended—

(1) in section 3(4)(L), by striking ''other'' the second place it appears;

(2) in section 102A—

(A) in subsection (c)(3)(A), by striking ''annual budgets for the Joint Military Intelligence Program and for Tactical Intelligence and Related Activities'' and inserting ''annual budget for the Military Intelligence Program or any successor program or programs'';

(B) in subsection (d)—

(i) in paragraph (1)(B), by striking ''Joint Military Intelligence Program'' and inserting ''Military Intelligence Program or any successor program or programs'';

(ii) in paragraph (3) in the matter preceding subparagraph (A), by striking ''subparagraph (A)'' and inserting ''paragraph (1)(A)''; and

(iii) in paragraph (5)—

(I) in subparagraph (A), by striking ''or personnel'' in the matter preceding clause (i); and

(II) in subparagraph (B), by striking ''or agency involved'' in the second sentence and inserting ''involved or the Director of the Central Intelligence Agency (in the case of the Central Intelligence Agency)'';

(C) in subsection (l)(2)(B), by striking ''section'' and inserting ''paragraph''; and

(D) in subsection (n), by inserting ''AND OTHER'' after ''ACQUISITION'';

(3) in section 103(b), by striking '', the National Security Act of 1947 (50 U.S.C. 401 et seq.),'';

(4) in section 104A(g)(1) in the matter preceding subparagraph (A), by striking ''Directorate of Operations'' and inserting ''National Clandestine Service'';

(5) in section 119(c)(2)(B) (50 U.S.C. 404o(c)(2)(B)), by striking ''subsection (h)'' and inserting ''subsection (i)'';

(6) in section 701(b)(1), by striking ''Directorate of Operations'' and inserting ''National Clandestine Service'';

(7) in section 705(e)(2)(D)(i) (50 U.S.C. 432c(e)(2)(D)(i)), by striking ''responsible'' and inserting ''responsive''; and

(8) in section 1003(h)(2) in the matter preceding subparagraph (A), by striking ''subsection (i)(2)(B)'' and inserting ''subsection (g)(2)(B)''.

SEC. 805. TECHNICAL AMENDMENTS RELATING TO THE MULTIYEAR NATIONAL INTELLIGENCE PROGRAM.

(a) IN GENERAL.—Subsection (a) of section 1403 of the National Defense Authorization Act for Fiscal Year 1991 (50 U.S.C. 404b) is amended—

(1) in the heading, by striking ''FOREIGN''; and

(2) by striking ''foreign'' each place it appears.

(b) RESPONSIBILITY OF DIRECTOR OF NATIONAL INTELLIGENCE.—Such section 1403, as amended by subsection (a), is further amended—

(1) in subsections (a) and (c), by striking ''Director of Central Intelligence'' and inserting ''Director of National Intelligence''; and

(2) in subsection (b), by inserting ''of National Intelligence'' after ''Director''.

(c) FUTURE-YEARS DEFENSE PROGRAM.—Subsection (c) of such section 1403, as amended by subsection (b), is further amended by striking ''multiyear defense program submitted pursuant to section 114a of title 10, United States Code'' and inserting ''future-years defense program submitted pursuant to section 221 of title 10, United States Code''.

(d) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—The heading of such section 1403 is amended to read as follows:

''SEC. 1403. MULTIYEAR NATIONAL INTELLIGENCE PROGRAM.''.

(2) TABLE OF CONTENTS AMENDMENT.—The table of contents in section 2 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1485) is amended by striking the item relating to section 1403 and inserting the following new item:

''Sec. 1403. Multiyear National Intelligence Program.''.

SEC. 806. TECHNICAL AMENDMENTS TO THE INTELLIGENCE REFORM AND TERRORISM PREVENTION ACT OF 2004.

(a) AMENDMENTS TO THE NATIONAL SECURITY INTELLIGENCE REFORM ACT OF 2004.—The National Security Intelligence Reform Act of 2004 (title I of Public Law 108–458; 118 Stat. 3643) is amended—

(1) in subparagraph (B) of section 1016(e)(10) (6 U.S.C. 485(e)(10)), by striking ''Attorney General'' the second place it appears and inserting ''Department of Justice'';

(2) in subsection (e) of section 1071, by striking ''(1)''; and

(3) in subsection (b) of section 1072, in the subsection heading by inserting ''AGENCY'' after ''INTELLIGENCE''.

(b) OTHER AMENDMENTS TO THE INTELLIGENCE REFORM AND TERRORISM PREVENTION ACT OF 2004.—The Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 118 Stat. 3638) is amended—

(1) in section 2001 (28 U.S.C. 532 note)—

(A) in paragraph (1) of subsection (c)—

(i) by striking ''shall,'' and inserting ''shall''; and

(ii) by inserting ''of'' before ''an institutional culture'';

(B) in paragraph (2) of subsection (e), by striking ''the National Intelligence Director in a manner consistent with section 112(e)'' and inserting ''the Director of National Intelligence in a manner consistent with applicable law''; and

(C) in subsection (f), by striking ''shall,'' in the matter preceding paragraph (1) and inserting ''shall''; and

(2) in section 2006 (28 U.S.C. 509 note)—

(A) in paragraph (2), by striking ''the Federal'' and inserting ''Federal''; and

(B) in paragraph (3), by striking ''the specific'' and inserting ''specific''.

SEC. 807. TECHNICAL AMENDMENTS TO THE EXECUTIVE SCHEDULE.

(a) EXECUTIVE SCHEDULE LEVEL II.—Section 5313 of title 5, United States Code, is amended by striking the item relating to the Director of Central Intelligence and inserting the following new item:

''Director of the Central Intelligence Agency.''.

(b) EXECUTIVE SCHEDULE LEVEL IV.—Section 5315 of title 5, United States Code, is amended by striking the item relating to the General Counsel of the Office of the National Intelligence Director and inserting the following new item:

''General Counsel of the Office of the Director of National Intelligence.''.

SEC. 808. TECHNICAL AMENDMENTS TO SECTION 105 OF THE INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2004.

Section 105(b) of the Intelligence Authorization Act for Fiscal Year 2004 (Public Law 108–177; 117 Stat. 2603; 31 U.S.C. 311 note) is amended—

(1) by striking ''Director of Central Intelligence'' and inserting ''Director of National Intelligence''; and

(2) by inserting ''or in section 313 of such title,'' after ''subsection (a)),''.

SEC. 809. TECHNICAL AMENDMENTS TO SECTION 602 OF THE INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1995.

Section 602 of the Intelligence Authorization Act for Fiscal Year 1995 (50 U.S.C. 403–2b) is amended—

(1) in subsection (a), in paragraph (2), by striking ''Director of Central Intelligence'' and inserting ''Director of National Intelligence''; and

(2) in subsection (b)—

(A) in paragraph (1), by striking ''Director of Central Intelligence'' and inserting ''Director of National Intelligence'';

(B) in paragraph (2)—

(i) in subparagraph (A), by striking ''Director of Central Intelligence'' and inserting ''Director of National Intelligence''; and

(ii) in subparagraph (B), by striking ''Director of Central Intelligence'' and inserting ''Director of National Intelligence''; and

(C) in paragraph (3), by striking ''Director of Central Intelligence'' and inserting ''Director of the Central Intelligence Agency''.

SEC. 810. TECHNICAL AMENDMENTS TO SECTION 403 OF THE INTELLIGENCE AUTHORIZATION ACT, FISCAL YEAR 1992.

(a) ROLE OF THE DIRECTOR OF NATIONAL INTELLIGENCE.—Section 403 of the Intelligence Authorization Act, Fiscal Year 1992 (50 U.S.C. 403–2) is amended by striking ''The Director of Central Intelligence'' and inserting the following:

''(a) IN GENERAL.—The Director of National Intelligence''.

(b) DEFINITION OF INTELLIGENCE COMMUNITY.—Section 403 of the Intelligence Authorization Act, Fiscal Year 1992, as amended by subsection (a), is further amended—

(1) by striking ''Intelligence Community'' and inserting ''intelligence community''; and

(2) by striking the second sentence and inserting the following:

''(b) INTELLIGENCE COMMUNITY DEFINED.—In this section, the term 'intelligence community' has the meaning given that term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).''.

SA 4666. Mr. CASEY (for Ms. MURKOWSKI) proposed an amendment to the bill S. 3802, to designate a mountain and icefield in the State of Alaska as the ''Mount Stevens'' and ''Ted Stevens Icefield'', respectively; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Mount Stevens and Ted Stevens Icefield Designation Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) Theodore ''Ted'' Fulton Stevens, who began serving in the Senate 9 years after Alaska was admitted to Statehood, represented the people of the State of Alaska

with distinction in the Senate for over 40 years from 1968 to 2009 and played a significant role in the transformation of the State of Alaska from an impoverished territory to a full-fledged State through the assistance he provided in building energy facilities, hospitals and clinics, roads, docks, airports, water and sewer facilities, schools, and other community facilities in the State of Alaska, which earned him recognition as ''Alaskan of the Century'' from the Alaska Legislature in 2000;

(2) Ted Stevens distinguished himself as a transport pilot during World War II in support of the ''Flying Tigers'' of the United States Army Air Corps, 14th Air Force, earning 2 Distinguished Flying Crosses and other decorations for his skill and bravery;

(3) Ted Stevens, after serving as a United States Attorney in the territory of Alaska, came to Washington, District of Columbia in 1956 to serve in the Eisenhower Administration in the Department of the Interior, where he was a leading force in securing the legislation that led to the admission of Alaska as the 49th State on January 3, 1959, and then as Solicitor of the Department of the Interior;

(4) in 1961, Ted Stevens returned to the State of Alaska and, in 1964, was elected to the Alaska House of Representatives, where he was subsequently elected as Speaker pro tempore and majority leader until his appointment on December 24, 1968, to the Senate to fill the vacancy caused by the death of Senator E.L. Bartlett;

(5) Ted Stevens, the longest-serving Republican Senator in the history of the Senate, served as President pro tempore of the Senate from 2003 through 2007 and as President pro tempore emeritus from 2008 to 2009, and over the course of his career in the Senate, Ted Stevens served as assistant Republican leader, Chairman of the Select Committee on Ethics, Chairman of the Committee on Rules and Administration, Chairman of the Committee on Governmental Affairs, Chairman of the Committee on Appropriations, and Chairman of the Committee on Commerce, Science, and Transportation;

(6) Ted Stevens worked tirelessly for the enactment of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which provided for the conveyance of approximately 44,000,000 acres of land in the State of Alaska to the Aleut, Eskimo, and Indian peoples and created Native Corporations to secure the long-term economic, cultural, and political empowerment of the Native peoples of the State of Alaska;

(7) Ted Stevens was a leader in shaping the communications policies of the United States, as he helped to establish the spectrum auction policy, negotiated the Telecommunications Act of 1996, authored the Digital Television Transition and Public Safety Act of 2005 (47 U.S.C. 309 note; Public Law 109–171), and passionately advocated for the connection of rural America to the rest of the world and to improve the lives of the people of the United States through the use of telemedicine and distance learning;

(8) Ted Stevens was a conservationist who championed the safe development of the natural resources of the United States, as illustrated by his authorship of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1651 et seq.), the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), which established the 200-mile exclusive economic zone and led to a reduction in the dominance of foreign fishing fleets in the fisheries of the United States, the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 (Public Law 109–479; 120 Stat. 3575), which established conservation measures designed to end overfishing, and the High Seas Driftnet Fisheries Enforcement Act (16 U.S.C. 1826a et seq.), which provided for the denial of entry into ports of the United States and the imposition of sanctions on vessels carrying out large-scale driftnet fishing beyond the exclusive economic zone of any nation;

(9) Ted Stevens was committed to health and fitness in his personal life and in his legislative accomplishments, as illustrated by his authorship of the Ted Stevens Amateur and Olympic Sports Act (36 U.S.C. 220501 et seq.), his encouragement of providing equality to female athletes through the enactment of title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), and his leadership in improving physical education programs in schools through the Carol M. White Physical Education Program (20 U.S.C. 7261 et seq.);

(10) Ted Stevens unconditionally supported the needs of the Armed Forces of the United States through visits to soldiers, sailors, airmen, marines, and Coast Guardsmen in every major military conflict and war zone where United States military personnel have been assigned during his service in the Senate, including Vietnam, Kuwait, Bosnia, Kosovo, Iraq, and Afghanistan, and in his role as Chairman and Ranking Member of the Subcommittee on Defense Appropriations for more than 20 years;

(11) Ted Stevens was a devoted husband, father, and grandfather who worked to promote family-friendly policies in the Federal government;

(12) Ted Stevens was well-respected for reaching across the aisle to forge bipartisan alliances and enjoyed many close friendships with colleagues in both political parties and with his staff, who were deeply loyal to him; and

(13) the designation of the unnamed highest peak in the State of Alaska, along with an icefield in the Chugach National Forest in that State, in honor of Ted Stevens would be a fitting tribute to his honorable life and legacy.

SEC. 3. DESIGNATION OF MOUNT STEVENS.

(a) DESIGNATION.—Not later than 30 days after the date of enactment of this Act, the United States Board on Geographic Names (referred to in this Act as the ''Board'') shall designate the unnamed, 13,895-foot peak in the Alaska Range in Denali National Park and Preserve in the State of Alaska, located at latitude 62.920469308 and longitude -151.066510314, as the ''Mount Stevens''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the peak referred to in subsection (a) shall be deemed to be a reference to the ''Mount Stevens''.

SEC. 4. DESIGNATION OF TED STEVENS ICEFIELD.

(a) DEFINITION OF ICEFIELD.—In this section, the term ''icefield'' means the icefield in the northern Chugach National Forest in the State of Alaska—

(1) comprising approximately 8,340 square miles, as delineated by the map entitled ''Ice Field Name Proposal in Honor of Stevens'' dated September 24, 2010, as prepared by the Forest Service and available for inspection at Forest Service headquarters in Washington, District of Columbia; and

(2) including the Harvard, Yale, Columbia, Nelchina, Tazlina, Valdez, and Shoup Glaciers.

(b) DESIGNATION.—Not later than 30 days after the date of enactment of this Act, the Board shall designate the icefield as the ''Ted Stevens Icefield''.

(c) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the icefield shall be deemed to be a reference to the ''Ted Stevens Icefield''.

NOTICE OF MEETING

COMMITTEE ON RULES AND ADMINISTRATION

Mr. SCHUMER. Mr. President, I wish to announce that the Committee on Rules and Administration will meet on Wednesday, September 29, 2010, at 10 a.m., to hear testimony on ''Examining the Filibuster: Ideas to Reduce Delay and Encourage Debate in the Senate.''

For further information regarding this meeting, please contact Lynden Armstrong at the Rules and Administration Committee on (202) 224–6352.

PRIVILEGES OF THE FLOOR

Mr. REID. Mr. President, on behalf of Senator MAX BAUCUS of Montana, I ask unanimous consent that Mary Baker and John Merrick, members of his staff, be permitted the privilege of the floor during consideration of S. 3816 and any votes thereon.

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

Mr. KAUFMAN. Mr. President, I ask unanimous consent that Jeffrey Colvin, a legislative fellow in my office, be granted the privilege of the floor for the remainder of the Congress.

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

REDUCING OVER-CLASSIFICATION ACT

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to Calendar No. 413, H.R. 553.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 553) to require the Secretary of Homeland Security to develop a strategy to prevent the over-classification of homeland security and other information and to promote the sharing of unclassified homeland security and other information, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Homeland Security and Governmental Affairs with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Reducing Over-Classification Act''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The National Commission on Terrorist Attacks Upon the United States (commonly known as the ''9/11 Commission'') concluded that there is a need to prevent over-classification of information by the Federal Government.

(2) The 9/11 Commission and others have observed that the over-classification of information interferes with accurate, actionable, and timely information sharing, increases the cost of information security, and needlessly limits public access to information.

(3) Over-classification of information causes considerable confusion about what information may be shared with whom, and negatively affects the dissemination of information within

the Federal Government and with State, local, and tribal entities, and the private sector.

(4) Excessive government secrecy stands in the way of a safer and more secure homeland. Overclassification of information is antithetical to the creation and operation of the information sharing environment established under 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485).

(5) Federal departments or agencies authorized to make original classification decisions or that perform derivative classification of information are responsible for developing, implementing, and administering policies, procedures, and programs that promote compliance with applicable laws, executive orders, and other authorities pertaining to the proper use of classification markings and the policies of the National Archives and Records Administration.

SEC. 3. CLASSIFIED INFORMATION ADVISORY OFFICER.

(a) IN GENERAL.—Subsection (d) of section 201 of the Homeland Security Act of 2002 (6 U.S.C. 121) is amended by adding at the end the following:

''(26) To identify and designate, acting through the Under Secretary for Intelligence and Analysis, a Classified Information Advisory Officer to assist State, local, tribal, and private sector entities that have responsibility for the security of critical infrastructure, in matters related to classified materials, as described in section 210F.''.

(b) ESTABLISHMENT AND RESPONSIBILITIES.—

(1) IN GENERAL.—Subtitle A of title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.) is amended by adding at the end the following:

''SEC. 210F. CLASSIFIED INFORMATION ADVISORY OFFICER.

''(a) REQUIREMENT TO ESTABLISH.—The Secretary, acting through the Under Secretary for Intelligence and Analysis, shall identify and designate within the Department a Classified Information Advisory Officer, as described in this section.

''(b) RESPONSIBILITIES.—The responsibilities of the Classified Information Advisory Officer shall be as follows:

''(1) To develop and disseminate educational materials and to develop and administer training programs to assist State, local, tribal, and private sector entities with responsibility related to the security of critical infrastructure—

''(A) in developing plans and policies to respond to requests related to classified information without communicating such information to individuals who lack appropriate security clearances;

''(B) regarding the appropriate procedures for challenging classification designations of information received by personnel of such entities; and

''(C) on the means by which such personnel may apply for security clearances.

''(2) To inform the Under Secretary for Intelligence and Analysis on policies and procedures that could facilitate the sharing of classified information with such personnel, as appropriate.''.

(2) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after the item relating to section 210E the following:

''Sec. 210F. Classified Information Advisory Officer.''.

SEC. 4. PROMOTION OF APPROPRIATE ACCESS TO INFORMATION.

Subsection (b) of section 102A of the National Security Act of 1947 (50 U.S.C. 403–1) is amended—

(1) by inserting ''(1)'' before ''Unless''; and

(2) by adding at the end the following new paragraph:

''(2) The Director of National Intelligence shall—

''(A) consistent with paragraph (1), have access to all intelligence information, including intelligence reports, operational data, and other associated information, produced by any element of the intelligence community; and

''(B) consistent with the protection of intelligence sources and methods, as determined by the Director—

''(i) ensure maximum access to the intelligence information referenced in subparagraph (A) for an employee of a department, agency, or other entity of the Federal Government or of a State, local, or tribal government who has an appropriate security clearance; and

''(ii) provide a mechanism within the Office of the Director of National Intelligence for the Director to direct access to the information referenced in subparagraph (A) for an employee referred to in clause (i).''.

SEC. 5. INTELLIGENCE INFORMATION SHARING.

(a) DEVELOPMENT OF GUIDANCE FOR INTELLIGENCE PRODUCTS.—Paragraph (1) of section 102A(g) of the National Security Act of 1947 (50 U.S.C. 403–1(g)) is amended—

(1) in subparagraph (E), by striking ''and'' at the end;

(2) in subparagraph (F), by striking the period at the end and inserting a semicolon and ''and''; and

(3) by adding at the end the following:

''(G) in accordance with Executive Order No. 12958, as amended by Executive Order No. 13292 (68 Fed. Reg. 15315; relating to classification of national security information) (or any subsequent corresponding executive order), and parts 2001 and 2004 of title 32, Code of Federal Regulations (or any subsequent corresponding regulation), establish—

''(i) guidance to standardize, in appropriate cases, the formats for classified and unclassified intelligence products created by elements of the intelligence community for purposes of promoting the sharing of intelligence products; and

''(ii) policies and procedures requiring the increased use, in appropriate cases, and including portion markings, of the classification of portions of information within one intelligence product.''.

(b) CREATION OF UNCLASSIFIED INTELLIGENCE PRODUCTS AS APPROPRIATE FOR STATE, LOCAL, TRIBAL, AND PRIVATE SECTOR STAKEHOLDERS.—Subsection (g) of section 102A of the National Security Act of 1947 (50 U.S.C. 403–1) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(2) by inserting after paragraph (2) the following:

''(3)(A) If the head of a Federal department or agency determines that an intelligence product which includes homeland security information, as defined in section 892(f) of the Homeland Security Information Sharing Act (6 U.S.C. 482(f)), or terrorism information, as defined in section 1016(a) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485(a)), could likely benefit a State, local, or tribal government, a law enforcement agency, or a private sector entity with responsibility for the security of critical infrastructure, such head shall share that intelligence product with the Interagency Threat Assessment and Coordination Group established in section 210D(a) of the Homeland Security Act of 2002 (6 U.S.C. 124k(a)).

''(B) If the Interagency Threat Assessment and Coordination Group determines that an intelligence product referred to in subparagraph (A), or any other intelligence product that such Group has access to, could likely benefit a State, local, or tribal government, a law enforcement agency, or a private sector entity, the Group shall recommend to the Under Secretary for Intelligence and Analysis of the Department of Homeland Security that the Under Secretary produce an intelligence product that is unclassified or that is classified at the lowest possible level—

''(i) based on the intelligence product referred to in subparagraph (A), in a manner consistent with the guidance established under paragraph (1)(G)(i); and

''(ii) provide such product to the appropriate entity or agency.

''(C)(i) The Secretary of Homeland Security shall submit to the congressional intelligence committees, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on Homeland Security of the House of Representatives an annual report on activities carried out under this paragraph. Each such report shall include a description of—

''(I) each recommendation made to the Under Secretary for Intelligence and Analysis under subparagraph (B);

''(II) each such recommendation that was carried out by the Under Secretary; and

''(III) each such recommendation that was not carried out by the Under Secretary.

''(ii) The initial report required under clause (i) shall be submitted not later than 270 days after the date of the enactment of the Reducing Over-Classification Act and no reports shall be required under clause (i) after December 31, 2014.''.

(c) INTERAGENCY THREAT ASSESSMENT AND COORDINATION GROUP ANNUAL REPORT MODIFICATION.—Subsection (c) of section 210D of the Homeland Security Act of 2002 (6 U.S.C. 124k) is amended—

(1) in paragraph (1), by striking ''and'' at the end;

(2) in paragraph (2), by striking the period at the end and inserting a semicolon and ''and''; and

(3) by adding at the end the following:

''(3) in each report required by paragraph (2) submitted after the date of the enactment of the Reducing Over-Classification Act, include a description of the progress made by the head of each Federal department and agency to share information with the ITACG pursuant to section 102A(g)(3)(A) of the National Security Act of 1947 (50 U.S.C. 403–1(g)(3)(A)).''.

SEC. 6. PROMOTION OF ACCURATE CLASSIFICATION OF INFORMATION.

(a) DERIVATIVE CLASSIFICATION AND ORIGINAL CLASSIFICATION DEFINED.—In this section, the terms ''derivative classification'' and ''original classification'' have the meaning given those terms in Executive Order No. 12958, as amended by Executive Order No. 13292 (68 Fed. Reg. 15315; relating to classification of national security information) (or any subsequent corresponding executive order).

(b) INCENTIVES FOR ACCURATE CLASSIFICATIONS.—The head of each department or agency of the United States with an officer or employee who is authorized to make original classification decisions or derivative classification decisions shall consider such officer's or employee's consistent and proper classification of information in determining whether to award any personnel incentive to the officer or employee.

(c) INSPECTOR GENERAL EVALUATIONS.—

(1) REQUIREMENT FOR EVALUATIONS.—Not less frequently than once each year until December 31, 2014, the inspector general of each department or agency of the United States with an officer or employee who is authorized to make original classifications shall carry out an evaluation of that department or agency or a component of the department or agency—

(A) to assess whether applicable classification policies, procedures, rules, and regulations have been adopted, followed, and effectively administered within such department, agency, or component; and

(B) to identify policies, procedures, rules, regulations, or management practices that may be contributing to persistent misclassification of material within such department, agency or component.

(2) REPORTS.—

(A) REQUIREMENT.—Each inspector general who is required to carry out an evaluation

under paragraph (1) shall submit to the appropriate entities a report on each such evaluation.

(B) CONTENT.—Each report submitted under subparagraph (A) shall include a description of—

(i) the policies, procedures, rules, regulations, or management practices, if any, identified by the inspector general under paragraph (1)(B); and

(ii) the recommendations, if any, of the inspector general to address any such identified policies, procedures, rules, regulations, or management practices.

(C) COORDINATION.—The inspectors general who are required to carry out evaluations under paragraph (1) shall coordinate with each other to ensure that evaluations follow a consistent methodology, as appropriate, that allows for cross-agency comparisons.

(3) APPROPRIATE ENTITIES DEFINED.—In this paragraph, the term ''appropriate entities'' means—

(A) the Committee on Homeland Security and Governmental Affairs and the Select Committee on Intelligence of the Senate;

(B) the Committee on Homeland Security, the Committee on Oversight and Government Reform, and the Permanent Select Committee on Intelligence of the House of Representatives;

(C) any other committee of Congress with jurisdiction over a department or agency referred to in paragraph (1);

(D) the head of a department or agency referred to in paragraph (1); and

(E) the Director of the Information Security Oversight Office.

SEC. 7. CLASSIFICATION TRAINING PROGRAM.

(a) INTELLIGENCE COMMUNITY DEFINED.—In this section, the term ''intelligence community'' has the meaning given that term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(b) REQUIREMENT FOR PROGRAM.—

(1) IN GENERAL.—The Director of National Intelligence, in accordance with Executive Order No. 12958, as amended by Executive Order No. 13292 (68 Fed. Reg. 15315; relating to classification of national security information) (or any subsequent corresponding executive order), shall require annual training for each employee of an element of the intelligence community and appropriate personnel of each contractor to an element of the intelligence community who has original classification authority, performs derivative classification, or is responsible for analysis, dissemination, preparation, production, receiving, publishing, or otherwise communicating written classified information that includes training—

(A) to educate the employee and contractor personnel regarding—

(i) the guidance established under subparagraph (G)(i) of section 102A(g)(1) of the National Security Act of 1947 (50 U.S.C. 403–1(g)(1)), as added by section 5(a)(3), regarding the formatting of finished intelligence products;

(ii) the proper use of classification markings, including portion markings that indicate the classification of portions of information within one intelligence product; and

(iii) any incentives and penalties related to the proper classification of intelligence information; and

(B) that is one of the prerequisites, once completed successfully, as evidenced by an appropriate certificate or other record, for—

(i) obtaining original classification authority or derivatively classifying information; and

(ii) maintaining such authority.

(2) RELATIONSHIP TO OTHER PROGRAMS.—The Director of National Intelligence shall ensure that the training required by paragraph (1) is conducted efficiently and in conjunction with any other security, intelligence, or other training programs required by elements of the intelligence community to reduce the costs and administrative burdens associated with carrying out the training required by paragraph (1).

Mr. DURBIN. I ask unanimous consent that the committee-reported substitute be considered; a Lieberman amendment, which is at the desk, be agreed to; the committee-reported substitute amendment, as amended, be agreed to; the bill, as amended, be read a third time and passed; the motions to reconsider be laid upon the table without intervening action or debate; and any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 4661) was agreed to.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

The committee amendment in the nature of a substitute, as amended, was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 553), as amended, was read the third time and passed.

PLAIN WRITING ACT OF 2010

Mr. CASEY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 321, H.R. 946.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 946) to enhance citizen access to Government information and services by establishing that Government documents issued to the public must be written clearly, and for other purposes.

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

Mr. CASEY. I ask unanimous consent that an Akaka amendment, which is at the desk, be agreed to; the bill, as amended, be read a third time and passed; the motion to reconsider be laid upon the table with no intervening action or debate; and any statements related to the bill be printed in the RECORD.

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

The amendment (No. 4663) was agreed to, as follows:

(Purpose: To modify the definition of plain writing, and for other purposes)

On page 2, line 9, strike ''relevant to'' and insert ''necessary for''.

On page 2, strike lines 21 through 25 and insert the following:

(3) PLAIN WRITING.—The term ''plain writing'' means writing that is clear, concise, well-organized, and follows other best practices appropriate to the subject or field and intended audience.

On page 3, line 18, insert ''as required under paragraph (2)'' after ''website''.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 946), as amended, was read the third time and passed, as follows:

H.R. 946

Resolved, That the bill from the House of Representatives (H.R. 946) entitled ''An Act to enhance citizen access to Government information and services by establishing that Government documents issued to the public must be written clearly, and for other purposes.'', do pass with the following Amendments:

(1) On page 2, line 17, strike **[**relevant to**]** and insert *necessary for*

(2) On page 3, strike lines 5 through 9 and insert the following:

(3) PLAIN WRITING.—The term ''plain writing'' means writing that is clear, concise, well-organized, and follows other best practices appropriate to the subject or field and intended audience.

(3) On page 4, line 2, after ''website'' insert *as required under paragraph (2)*

INDIAN VETERANS HOUSING OPPORTUNITY ACT OF 2010

Mr. CASEY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 579, H.R. 3553.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 3553) to exclude from consideration as income under the Native American Housing Assistance and Self-Determination Act of 1996 amounts received by a family from the Department of Veterans Affairs for service-related disabilities of a member of the family.

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

Mr. CASEY. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the bill be printed in the RECORD.

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

The bill (H.R. 3553) was ordered to a third reading, was read the third time, and passed.

KINGMAN AND HERITAGE ISLANDS ACT OF 2009

Mr. CASEY. Mr. President, I ask unanimous consent that the Senate proceed to Calendar No. 582, H.R. 2092.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2092) to amend the National Children's Island Act of 1995 to expand allowable uses for Kingman and Heritage Islands by the District of Columbia, and for other purposes, do pass with amendments.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Homeland Security and Governmental Affairs, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italics.)

H.R. 2092

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 ''Kingman and Heritage Islands Act of 2009''.

SEC. 2. AMENDMENTS TO NATIONAL CHILDREN'S ISLAND ACT OF 1995.

(a) EXPANSION OF ALLOWABLE USES FOR KINGMAN AND HERITAGE ISLAND.—The National Children's Island Act of 1995 (sec. 10–1401 et seq., D.C. Official Code) is amended by adding at the end the following:

"SEC. 7. COMPREHENSIVE AND ANACOSTIA WATERFRONT FRAMEWORK PLANS.

''(a) COMPLIANCE WITH PLANS.—Notwithstanding any other provision of this Act, it is not a violation of the terms and conditions of this Act for the District of Columbia to use the lands conveyed and the easements granted under this Act in accordance with the Anacostia Waterfront Framework Plan and the Comprehensive Plan.

''(b) DEFINITIONS.—For purposes of this section, the following definitions apply:

''(1) ANACOSTIA WATERFRONT FRAMEWORK PLAN.—The term 'Anacostia Waterfront Framework Plan' means the November 2003 Anacostia Waterfront Framework Plan to redevelop and revitalize the Anacostia waterfront in the District of Columbia, as may be amended from time to time, developed pursuant to a memorandum of understanding dated March 22, 2000, between the General Services Administration, Government of the District of Columbia, Office of Management and Budget, Naval District Washington, Military District Washington, Marine Barracks Washington, Department of Labor, Department of Transportation, National Park Service, Army Corps of Engineers, Environmental Protection Agency, Washington Metropolitan Area Transit Authority, National Capital Planning Commission, National Arboretum, and Small Business Administration.

''(2) COMPREHENSIVE PLAN.—The term 'Comprehensive Plan' means the Comprehensive Plan of the District of Columbia approved by the Council of the District of Columbia on December 28, 2006, as such plan may be amended or superseded from time to time.''.

(b) MODIFICATION OF REVERSIONARY INTEREST.—Paragraph (1) of section 3(d) of the National Children's Island Act of 1995 (sec. 10–1402(d)(1), D.C. Official Code) is amended by striking ''The transfer under subsection (a)'' and all that follows and inserting the following: ''Title in the property transferred under subsection (a) and the easements granted under subsection (b) shall revert to the United States upon the expiration of the 60-day period which begins on the date on which the Secretary provides written notice to the District that the Secretary has determined that [the]*a portion of the* District is not using the property for recreational, environmental, or educational purposes in accordance with National Children's Island, the Anacostia Waterfront Framework Plan, or [for another recreational, environmental, or educational purpose, except that the reversionary interest of the United States under this paragraph shall expire upon the expiration of the 30-year period which begins on the date of the enactment of the Kingman and Heritage Islands Act of 2009.]*the Comprehensive Plan*. Such notice shall be made in accordance with chapter 5 of title 5, United States Code (relating to administrative procedures).''.

Mr. CASEY. I ask unanimous consent that the committee-reported amendments be agreed to, and the bill, as amended, be read a third time and passed; the motions to reconsider be laid upon the table, without intervening action or debate; and any statements related to the bill be printed in the RECORD.

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

The committee amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 2092), as amended, was read the third time and passed.

UNITED STATES SECRET SERVICE UNIFORMED DIVISION MODERNIZATION ACT OF 2010

Mr. CASEY. Mr. President, I ask that the Chair lay before the Senate a message from the House with respect to S. 1510, U.S. Secret Service Uniformed Division Modernization Act of 2010.

The PRESIDING OFFICER laid before the Senate the following message:

S. 1510

Resolved, That the bill (S. 1510) entitled ''An Act to transfer statutory entitlements to pay and hours of work authorized by laws codified in the District of Columbia Official Code for current members of the United States Secret Service Uniformed Division from such laws to the United States Code, do pass with amendments.

Mr. CASEY. I ask unanimous consent that the Senate concur in the House amendments to the Senate bill, with an amendment which is at the desk; that the motion to concur be agreed to and the motion to reconsider be laid upon the table; further that the Senate agree to the title amendment.

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

The amendment (No. 4664) was agreed to.

The amendment is printed in today's RECORD under ''Text of Amendments.'')

The title amendment was agreed to, as follows: ''An Act to transfer statutory entitlements to pay and hours of work authorized by laws codified in the District of Columbia Official Code for current members of the United States Secret Service Uniformed Division from such laws to the United States Code, and for other purposes.''

ACCESS TO THE GENERAL SERVICES ADMINISTRATION'S SCHEDULES PROGRAM

Mr. CASEY. Mr. President, I ask the Chair to lay before the Senate a message from the House on S. 2868.

The PRESIDING OFFICER laid before the Senate the following message:

S. 2868

Resolved, That the bill from the Senate (S. 2868) entitled ''An Act to provide increased access to the General Services Administration's Schedules Program by the American Red Cross and State and local governments.'', do pass with the following amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Federal Supply Schedules Usage Act of 2010''.

SEC. 2. AUTHORITY OF THE AMERICAN RED CROSS AND OTHER QUALIFIED ORGANIZATIONS TO USE FEDERAL SUPPLY SCHEDULES FOR CERTAIN GOODS AND SERVICES.

Section 502 of title 40, United States Code, is amended by adding at the end the following new subsection:

''(e) USE OF SUPPLY SCHEDULES BY THE RED CROSS AND OTHER QUALIFIED ORGANIZATIONS.—

''(1) IN GENERAL.—The Administrator may provide for the use by the American National Red Cross and other qualified organizations of Federal supply schedules. Purchases under this authority by the American National Red Cross shall be used in furtherance of the purposes of the American National Red Cross set forth in section 300102 of title 36, United States Code. Purchases under this authority by other qualified organizations shall be used in furtherance of purposes determined to be appropriate to facilitate emergency preparedness and disaster relief and set forth in guidance by the Administrator of General Services, in consultation with the Administrator of the Federal Emergency Management Agency.

''(2) LIMITATION.—The authority under this subsection may not be used to purchase supplies for resale.

''(3) QUALIFIED ORGANIZATION.—In this subsection, the term 'qualified organization' means a relief or disaster assistance organization as described in section 309 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5152).''.

SEC. 3. DUTY OF USERS REGARDING USE OF FEDERAL SUPPLY SCHEDULES.

Section 502 of title 40, United States Code, as amended by section 2, is further amended by adding at the end the following new subsection:

''(f) DUTY OF USERS REGARDING USE OF SUPPLY SCHEDULES.—All users of Federal supply schedules, including non-Federal users, shall use the schedules in accordance with the ordering guidance provided by the Administrator of General Services.''.

SEC. 4. AUTHORITY OF STATE AND LOCAL GOVERNMENTS TO USE SUPPLY SCHEDULES FOR CERTAIN GOODS AND SERVICES.

Subsection (d)(1) of section 502 of title 40, United States Code, is amended by inserting '', to facilitate disaster preparedness or response,'' after ''Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.)''.

SEC. 5. PAYGO COMPLIANCE.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled ''Budgetary Effects of PAYGO Legislation'' for this Act, submitted for printing in the Congressional Record by the Chairman of the House Budget Committee, provided that such statement has been submitted prior to the vote on passage.

Amend the title so as to read: ''An Act to provide increased access to the Federal supply schedules of the General Services Administration to the American Red Cross, other qualified organizations, and State and local governments.''.

Mr. CASEY. I ask unanimous consent the Senate concur in the House amendments and the motion to reconsider be laid upon the table, with no intervening action.

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

INTERSTATE RECOGNITION OF NOTARIZATIONS ACT OF 2009

Mr. CASEY. Mr. President, I ask unanimous consent the Judiciary Committee be discharged from further consideration of H.R. 3808, and the Senate proceed to its immediate consideration.

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

The legislative clerk read as follows:

A bill (H.R. 3808) to require any Federal or State court to recognize any notarization made by a notary public licensed by a State other than the State where the court is located when such notarization occurs in or affects interstate commerce.

The PRESIDING OFFICER. There being no objection, the Senate proceeded to consider the bill.

Mr. CASEY. I ask unanimous consent the bill be read a third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements be printed in the RECORD.

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

The bill (H.R. 3808) was ordered to a third reading, was read the third time, and passed.

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2010

Mr. CASEY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 2701, the Intelligence Authorization Act, received from the House and at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2701) to authorize appropriations for fiscal year 2010 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

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

Mr. BOND. Mr. President, I rise today to join the distinguished Chair of the Select Committee on Intelligence in supporting the passage of H.R. 2701, the Intelligence Authorization Act for Fiscal Year 2010, with a Senate substitute amendment. This substitute amendment is very similar to S. 3611, which the Senate passed by unanimous consent nearly 2 months ago in an effort to encourage House Speaker NANCY PELOSI to allow consideration of an intelligence authorization bill.

It is often said that the third time is the charm. I certainly hope so. Last summer, we passed our intelligence authorization bill through the Senate in time for the Intelligence Committee to impact fiscal year spending. Unfortunately, our bill got held up in the House for political reasons. So, in August of this year, we tried again. Still, our bill was held up. Now, here we are, on the eve of a new fiscal year, and it looks like we finally have a compromise that will allow Congress to pass an intelligence authorization bill once again.

Why does passing an authorization bill matter at this late date in the fiscal year? This bill does more than just authorize funding for intelligence activities—a vital purpose in and of itself. By providing current congressional guidance and statutory authorities, we can ensure that the intelligence community has the maximum flexibility and capability it needs to function effectively, spend taxpayer funds wisely, and keep our Nation safe.

The intelligence authorization bill before us is a good bill. It will give the intelligence community much-needed flexibility and authority and will ensure appropriate intelligence oversight by this committee.

Two months ago, the Senate confirmed a new Director of National Intelligence. I have often said that in creating the DNI, we gave him an awful lot of responsibility without all the authority he needed. Well, our bill attempts to address that problem by giving the DNI clearer authority and greater flexibility in overseeing the intelligence community. As Director Clapper takes on his new assignment, I expect these provisions will play a big part in helping him lead the intelligence community—and ensuring the rest of the intelligence community recognizes his role, too.

There are also a number of provisions in this bill that I believe are essential for promoting good government and smarter spending. Too often, we have seen programs or acquisitions of major systems balloon in cost and decrease in performance. That is unacceptable. We are in difficult economic times and the taxpayers are spending substantial sums of their hard-earned money to ensure that the intelligence community has the tools it needs to keep us safe. If we do not demand accountability for how these tools are operated or created, we are failing the intelligence community and, ultimately, we are failing the American people.

So, for the past several years, I have sponsored amendments that require the intelligence community to perform vulnerability assessments of major systems and to keep track of excessive cost growth of major systems. This latter provision is modeled on the Nunn-McCurdy provision which has guided Defense Department acquisitions for years. I am happy to say that these provisions are part of this bill. I believe that these, and other good-government provisions, will encourage earlier identification and solving of problems relating to the acquisition of major systems. Too often, such problems are not identified until exorbitant sums of money have been spent—and, unfortunately, at that point, bureaucratic inertia takes over and there is often reluctance to cancel the project.

Similarly, the intelligence community must get a handle on its personnel levels. In these tough economic times, it is more important than ever to make sure that the intelligence community is appropriately resourced so it can effectively perform its national security missions.

This is not, however, an open invitation for more contractors. Far too many times, contractors are used by the intelligence community to perform functions better left to government employees. There are some jobs that demand the use of contractors—for example, certain technical jobs or short-term functions—but the easy, quick fix has been to just hire contractors, not long-term support. And so, our bill includes a provision calling for annual personnel level assessments for the intelligence community. These assessments will ensure that, before more people are brought in, there are adequate resources to support them and enough work to keep them busy.

These are just a few of the provisions in this bill that I believe are important for the success of our intelligence collection efforts and equally important for ensuring sound oversight by the Intelligence Committee.

Now, the substitute amendment does not change any of these provisions. It does make some minor technical changes, and because the fiscal year will be over before the bill becomes law, some of the authorizing provisions have been removed.

The most significant changes in the substitute reflect the compromise reached by Speaker PELOSI with the Senate and the administration on the issues of congressional notification and the relationship between the intelligence community and the Government Accountability Office.

This new version of the congressional notification provision revives language similar to the first fiscal year 2010 intelligence authorization bill that passed the Senate by unanimous consent last year. This language provides that the executive branch will be required to provide a ''general description'' to all of the members of the congressional intelligence committees regarding a covert action finding or congressional notification that has been limited to the ''Gang of Eight.'' This provision is limited to a description that is consistent with the reasons for not yet fully informing all the members of the intelligence committees, so the provision is somewhat weaker than our original language.

Another change to the congressional notification provision is the insertion of a requirement that the decision to limit access to ''Gang of Eight'' findings and notifications be reviewed within the executive branch every 180 days. If the President determines that such limitations are no longer necessary, then all the members of the congressional intelligence committees will be provided access to such findings and notifications.

These limitations are often revisited periodically by the executive branch, so this time period should not cause difficulty for the administration. We have seen in the past the benefits that come from bringing the full committees into the loop as soon as possible. Moreover, operational sensitivities can change over time. By requiring a periodic review, this provision ensures that highly sensitive matters will remain protected as long as necessary, while also promoting a full cooperative relationship between the two branches.

The substitute amendment contains only one real new provision, section 348, which requires the DNI to issue a written directive governing GAO access to information in the possession of the intelligence community. This provision does not change the underlying law with respect to GAO access to intelligence information, but will allow Congress to study this issue more closely in the future.

It is well past time that Congress sent an intelligence authorization bill to the President for his signature. Only by fulfilling our legislative function will we get back on track with performing effective and much-needed intelligence oversight.

I commend Senator FEINSTEIN for her leadership in shepherding this bill through the committee and the Senate. I appreciate her willingness to work through the countless issues raised throughout this process. I also thank my colleagues for supporting this bill.

This 2010 intelligence authorization bill has the full support of the Senate. Senior administration officials have said they will recommend that the President sign this compromise text into law. I urge the House of Representatives to pass this bill as soon as possible so that we can get back on track with our intelligence oversight.

Mr. CASEY. I ask unanimous consent the Feinstein-Bond substitute amendment which is at the desk be considered and agreed to, the bill as amended be read a third time, that after the reading of the Conrad pay-go letter into the RECORD the Senate bill be passed, as amended, that any statements be printed in the RECORD.

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

The clerk will read the pay-go letter.

The legislative clerk read as follows:

Statement of Budgetary Effects of PAYGO Legislation for H.R. 2701, as amended.

Total Budgetary Effects of H.R. 2701 for the 5-year Statutory PAYGO Scorecard: $0.

Total Budgetary Effects of H.R. 2701 for the 10-year Statutory PAYGO Scorecard: $0.

Also submitted for the RECORD as part of this statement is a table prepared by the Congressional Budget Office, which provides additional information on the budgetary effects on this Act, as follows:

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE FOR H.R. 2701, THE INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2010, AS PROVIDED TO CBO ON SEPTEMBER 24TH, 2010

	By fiscal year, in millions of dollars—												
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2010–2015	2010–2020
Net Increase or Decrease (−) in the Deficit													
Statutory Pay-As-You-Go Impact [a]	0	0	0	0	0	0	0	0	0	0	0	0	0

[a] The legislation would authorize appropriations for fiscal year 2010 for intelligence and intelligence-related activities of the United States Government and establish additional intelligence-related offices and programs within the federal government.

The amendment (No. 4665) in the nature of a substitute was agreed to.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

The amendment was ordered to be engrossed and the bill read a third time.

The bill (H.R. 2701), as amended, was read the third time and passed.

ACCREDITATION OF ENGLISH LANGUAGE

Mr. CASEY. I ask unanimous consent the Judiciary Committee be discharged from further consideration S. 1338 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1338) to require the accreditation of English language training programs, and for other purposes.

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

Mr. CASEY. I ask unanimous consent the bill be read a third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements be printed in the RECORD.

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

The bill, (S. 1338) was read ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1338

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ACCREDITATION OF ENGLISH LANGUAGE TRAINING PROGRAMS.

(a) IN GENERAL.—Section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)) is amended—

(1) in paragraph (15)(F)(i), by striking ''a language'' and inserting ''an accredited language''; and

(2) by adding at the end the following:

''(52) The term 'accredited language training program' means a language training program that is accredited by an accrediting agency recognized by the Secretary of Education.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsection (a) shall—

(A) take effect on the date that is 180 days after the date of the enactment of this Act; and

(B) apply with respect to applications for a nonimmigrant visa under section 101(a)(15)(F)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F)(i)) that are filed on or after the effective date described in subparagraph (A).

(2) TEMPORARY EXCEPTION.—

(A) IN GENERAL.—Notwithstanding section 101(a)(15)(F)(i) of the Immigration and Nationality Act, as amended by subsection (a), during the 3-year period beginning on the date of the enactment of this Act, an alien seeking to enter the United States to pursue a course of study at a language training program that has been certified by the Secretary of Homeland Security and has not been accredited or denied accreditation by an entity described in section 101(a)(52) of such Act may be granted a nonimmigrant visa under such section 101(a)(15)(F)(i).

(B) ADDITIONAL REQUIREMENT.—An alien may not be granted a nonimmigrant visa under subparagraph (A) if the sponsoring institution of the language training program to which the alien seeks to enroll does not—

(i) submit an application for the accreditation of such program to a regional or national accrediting agency recognized by the Secretary of Education within 1 year after the date of the enactment of this Act; and

(ii) comply with the applicable accrediting requirements of such agency.

MOUNT STEVENS AND TED STEVENS ICEFIELD DESIGNATION ACT

Mr. CASEY. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be discharged from further consideration of S. 3802 and the Senate proceed to its immediate consideration.

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

The legislative clerk read as follows:

A bill (S. 3802) to designate a mountain, and icefield in the State of Alaska as the ''Mount Stevens'' and ''Ted Stevens Icefield,'' respectively.

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

Mr. CASEY. Mr. President, I ask unanimous consent that the substitute amendment which is at the desk be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

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

The amendment (No. 4666) was agreed to, as follows:

(Purpose: In the nature of a substitute)

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Mount Stevens and Ted Stevens Icefield Designation Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) Theodore ''Ted'' Fulton Stevens, who began serving in the Senate 9 years after Alaska was admitted to Statehood, represented the people of the State of Alaska with distinction in the Senate for over 40 years from 1968 to 2009 and played a significant role in the transformation of the State

of Alaska from an impoverished territory to a full-fledged State through the assistance he provided in building energy facilities, hospitals and clinics, roads, docks, airports, water and sewer facilities, schools, and other community facilities in the State of Alaska, which earned him recognition as ''Alaskan of the Century'' from the Alaska Legislature in 2000;

(2) Ted Stevens distinguished himself as a transport pilot during World War II in support of the ''Flying Tigers'' of the United States Army Air Corps, 14th Air Force, earning 2 Distinguished Flying Crosses and other decorations for his skill and bravery;

(3) Ted Stevens, after serving as a United States Attorney in the territory of Alaska, came to Washington, District of Columbia in 1956 to serve in the Eisenhower Administration in the Department of the Interior, where he was a leading force in securing the legislation that led to the admission of Alaska as the 49th State on January 3, 1959, and then as Solicitor of the Department of the Interior;

(4) in 1961, Ted Stevens returned to the State of Alaska and, in 1964, was elected to the Alaska House of Representatives, where he was subsequently elected as Speaker pro tempore and majority leader until his appointment on December 24, 1968, to the Senate to fill the vacancy caused by the death of Senator E.L. Bartlett;

(5) Ted Stevens, the longest-serving Republican Senator in the history of the Senate, served as President pro tempore of the Senate from 2003 through 2007 and as President pro tempore emeritus from 2008 to 2009, and over the course of his career in the Senate, Ted Stevens served as assistant Republican leader, Chairman of the Select Committee on Ethics, Chairman of the Committee on Rules and Administration, Chairman of the Committee on Governmental Affairs, Chairman of the Committee on Appropriations, and Chairman of the Committee on Commerce, Science, and Transportation;

(6) Ted Stevens worked tirelessly for the enactment of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which provided for the conveyance of approximately 44,000,000 acres of land in the State of Alaska to the Aleut, Eskimo, and Indian peoples and created Native Corporations to secure the long-term economic, cultural, and political empowerment of the Native peoples of the State of Alaska;

(7) Ted Stevens was a leader in shaping the communications policies of the United States, as he helped to establish the spectrum auction policy, negotiated the Telecommunications Act of 1996, authored the Digital Television Transition and Public Safety Act of 2005 (47 U.S.C. 309 note; Public Law 109–171), and passionately advocated for the connection of rural America to the rest of the world and to improve the lives of the people of the United States through the use of telemedicine and distance learning;

(8) Ted Stevens was a conservationist who championed the safe development of the natural resources of the United States, as illustrated by his authorship of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1651 et seq.), the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), which established the 200-mile exclusive economic zone and led to a reduction in the dominance of foreign fishing fleets in the fisheries of the United States, the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 (Public Law 109–479; 120 Stat. 3575), which established conservation measures designed to end overfishing, and the High Seas Driftnet Fisheries Enforcement Act (16 U.S.C. 1826a et seq.), which provided for the denial of entry into ports of the United States and the imposition of sanctions on vessels carrying out large-scale driftnet fishing beyond the exclusive economic zone of any nation;

(9) Ted Stevens was committed to health and fitness in his personal life and in his legislative accomplishments, as illustrated by his authorship of the Ted Stevens Amateur and Olympic Sports Act (36 U.S.C. 220501 et seq.), his encouragement of providing equality to female athletes through the enactment of title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), and his leadership in improving physical education programs in schools through the Carol M. White Physical Education Program (20 U.S.C. 7261 et seq.);

(10) Ted Stevens unconditionally supported the needs of the Armed Forces of the United States through visits to soldiers, sailors, airmen, marines, and Coast Guardsmen in every major military conflict and war zone where United States military personnel have been assigned during his service in the Senate, including Vietnam, Kuwait, Bosnia, Kosovo, Iraq, and Afghanistan, and in his role as Chairman and Ranking Member of the Subcommittee on Defense Appropriations for more than 20 years;

(11) Ted Stevens was a devoted husband, father, and grandfather who worked to promote family-friendly policies in the Federal government;

(12) Ted Stevens was well-respected for reaching across the aisle to forge bipartisan alliances and enjoyed many close friendships with colleagues in both political parties and with his staff, who were deeply loyal to him; and

(13) the designation of the unnamed highest peak in the State of Alaska, along with an icefield in the Chugach National Forest in that State, in honor of Ted Stevens would be a fitting tribute to his honorable life and legacy.

SEC. 3. DESIGNATION OF MOUNT STEVENS.

(a) DESIGNATION.—Not later than 30 days after the date of enactment of this Act, the United States Board on Geographic Names (referred to in this Act as the ''Board'') shall designate the unnamed, 13,895-foot peak in the Alaska Range in Denali National Park and Preserve in the State of Alaska, located at latitude 62.920469308 and longitude -151.066510314, as the ''Mount Stevens''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the peak referred to in subsection (a) shall be deemed to be a reference to the ''Mount Stevens''.

SEC. 4. DESIGNATION OF TED STEVENS ICEFIELD.

(a) DEFINITION OF ICEFIELD.—In this section, the term ''icefield'' means the icefield in the northern Chugach National Forest in the State of Alaska—

(1) comprising approximately 8,340 square miles, as delineated by the map entitled ''Ice Field Name Proposal in Honor of Stevens'' dated September 24, 2010, as prepared by the Forest Service and available for inspection at Forest Service headquarters in Washington, District of Columbia; and

(2) including the Harvard, Yale, Columbia, Nelchina, Tazlina, Valdez, and Shoup Glaciers.

(b) DESIGNATION.—Not later than 30 days after the date of enactment of this Act, the Board shall designate the icefield as the ''Ted Stevens Icefield''.

(c) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the icefield shall be deemed to be a reference to the ''Ted Stevens Icefield''.

The bill, as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

SECURITY COOPERATION ACT OF 2010

Mr. CASEY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 3847, introduced earlier today.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 3847) to implement certain trade cooperation treaties, and for other purposes.

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

Mr. CASEY. Mr. President, I ask unanimous consent that the bill be read three times and passed; the motion to reconsider be laid upon the table, with no intervening action or debate; and any statements be printed in the RECORD.

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

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3847

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 ''Security Cooperation Act of 2010''.

TITLE I—DEFENSE TRADE COOPERATION TREATIES

SEC. 101. SHORT TITLE.

This title may be cited as the ''Defense Trade Cooperation Treaties Implementation Act of 2010''.

SEC. 102. EXEMPTIONS FROM REQUIREMENTS.

(a) RETRANSFER REQUIREMENTS.—Section 3(b) of the Arms Export Control Act (22 U.S.C. 2753(b)) is amended by inserting ''a treaty referred to in section 38(j)(1)(C)(i) of this Act permits such transfer without prior consent of the President, or if'' after ''if''.

(b) BILATERAL AGREEMENT REQUIREMENTS.—Section 38(j)(1) of such Act (22 U.S.C. 2778(j)(1)) is amended—

(1) in the subparagraph heading for subparagraph (B), by inserting ''FOR CANADA'' after ''EXCEPTION''; and

(2) by adding at the end the following new subparagraph:

''(C) EXCEPTION FOR DEFENSE TRADE COOPERATION TREATIES.—

''(i) IN GENERAL.—The requirement to conclude a bilateral agreement in accordance with subparagraph (A) shall not apply with respect to an exemption from the licensing requirements of this Act for the export of defense items to give effect to any of the following defense trade cooperation treaties, provided that the treaty has entered into force pursuant to article II, section 2, clause 2 of the Constitution of the United States:

''(I) The Treaty Between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland Concerning Defense Trade Cooperation, done at Washington and London on June 21 and 26, 2007 (and any implementing arrangement thereto).

''(II) The Treaty Between the Government of the United States of America and the Government of Australia Concerning Defense Trade Cooperation, done at Sydney September 5, 2007 (and any implementing arrangement thereto).

''(ii) LIMITATION OF SCOPE.—The United States shall exempt from the scope of a treaty referred to in clause (i)—

''(I) complete rocket systems (including ballistic missile systems, space launch vehicles, and sounding rockets) or complete unmanned aerial vehicle systems (including cruise missile systems, target drones, and reconnaissance drones) capable of delivering at least a 500 kilogram payload to a range of 300 kilometers, and associated production facilities, software, or technology for these systems, as defined in the Missile Technology Control Regime Annex Category I, Item 1;

''(II) individual rocket stages, re-entry vehicles and equipment, solid or liquid propellant motors or engines, guidance sets, thrust vector control systems, and associated production facilities, software, and technology, as defined in the Missile Technology Control Regime Annex Category I, Item 2;

''(III) defense articles and defense services listed in the Missile Technology Control Regime Annex Category II that are for use in rocket systems, as that term is used in such Annex, including associated production facilities, software, or technology;

''(IV) toxicological agents, biological agents, and associated equipment, as listed in the United States Munitions List (part 121.1 of chapter I of title 22, Code of Federal Regulations), Category XIV, subcategories (a), (b), (f)(1), (i), (j) as it pertains to (f)(1), (l) as it pertains to (f)(1), and (m) as it pertains to all of the subcategories cited in this paragraph;

''(V) defense articles and defense services specific to the design and testing of nuclear weapons which are controlled under United States Munitions List Category XVI(a) and (b), along with associated defense articles in Category XVI(d) and technology in Category XVI(e);

''(VI) with regard to the treaty cited in clause (i)(I), defense articles and defense services that the United States controls under the United States Munitions List that are not controlled by the United Kingdom, as defined in the United Kingdom Military List or Annex 4 to the United Kingdom Dual Use List, or any successor lists thereto; and

''(VII) with regard to the treaty cited in clause (i)(II), defense articles for which Australian laws, regulations, or other commitments would prevent Australia from enforcing the control measures specified in such treaty.''.

SEC. 103. ENFORCEMENT.

(a) CRIMINAL VIOLATIONS.—Section 38(c) of such Act (22 U.S.C. 2778(c)) is amended by striking ''this section or section 39, or any rule or regulation issued under either section'' and inserting ''this section, section 39, a treaty referred to in subsection (j)(1)(C)(i), or any rule or regulation issued under this section or section 39, including any rule or regulation issued to implement or enforce a treaty referred to in subsection (j)(1)(C)(i) or an implementing arrangement pursuant to such treaty''.

(b) ENFORCEMENT POWERS OF PRESIDENT.—Section 38(e) of such Act (22 U.S.C. 2278(e)) is amended by striking ''defense services,'' and inserting ''defense services, including defense articles and defense services exported or imported pursuant to a treaty referred to in subsection (j)(1)(C)(i),''.

(c) NOTIFICATION REGARDING EXEMPTIONS FROM LICENSING REQUIREMENTS.—Section 38(f) of such Act (22 U.S.C. 2778(f)) is amended by adding at the end the following new paragraph:

''(4) Paragraph (2) shall not apply with respect to an exemption under subsection (j)(1) to give effect to a treaty referred to in subsection (j)(1)(C)(i) (and any implementing arrangements to such treaty), provided that the President promulgates regulations to implement and enforce such treaty under this section and section 39.''.

(d) INCENTIVE PAYMENTS.—Section 39A(a) of such Act (22 U.S.C. 2779a(a)) is amended by inserting ''or exported pursuant to a treaty referred to in section 38(j)(1)(C)(i) of this Act'' after ''under this Act''.

SEC. 104. CONGRESSIONAL NOTIFICATION.

(a) RETRANSFERS AND REEXPORTS.—Section 3(d)(3)(A) of such Act (22 U.S.C. 2753(d)(3)(A)) is amended by inserting ''or has been exempted from the licensing requirements of this Act pursuant to a treaty referred to in section 38(j)(1)(C)(i) of this Act where such treaty does not authorize the transfer without prior United States Government approval'' after ''approved under section 38 of this Act''.

(b) DISCRIMINATION.—Section 5(c) of such Act (22 U.S.C. 2755(c)) is amended by inserting ''or any import or export under a treaty referred to in section 38(j)(1)(C)(i) of this Act'' after ''under this Act''.

(c) ANNUAL ESTIMATE OF SALES.—Section 25(a) of such Act (22 U.S.C. 2765(a)) is amended—

(1) in paragraph (1), by inserting '', as well as exports pursuant to a treaty referred to in section 38(j)(1)(C)(i) of this Act,'' after ''commercial exports under this Act''; and

(2) in paragraph (2), by inserting '', as well as exports pursuant to a treaty referred to in section 38(j)(1)(C)(i) of this Act,'' after ''commercial exports''.

(d) PRESIDENTIAL CERTIFICATIONS.—

(1) EXPORTS.—Section 36(c) of such Act (22 U.S.C. 2776(c)) is amended by adding at the end the following new paragraph:

''(6) The President shall notify the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate at least 15 days prior to an export pursuant to a treaty referred to in section 38(j)(1)(C)(i) of this Act to which the provisions of paragraph (1) of this subsection would apply absent an exemption granted under section 38(j)(1) of this Act, for which purpose such notification shall contain information comparable to that specified in paragraph (1) of this subsection.''.

(2) COMMERCIAL TECHNICAL ASSISTANCE OR MANUFACTURING LICENSING AGREEMENTS.—Section 36(d) of such Act (22 U.S.C. 2776(d)) is amended by adding at the end the following new paragraph:

''(6) The President shall notify the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate at least 15 days prior to an export pursuant to a treaty referred to in section 38(j)(1)(C)(i) of this Act to which the provisions of paragraph (1) of this subsection would apply absent an exemption granted under section 38(j)(1) of this Act, for which purpose such notification shall contain information comparable to that specified in paragraph (1) of this subsection.''.

(e) FEES AND POLITICAL CONTRIBUTIONS.—Section 39(a) of such Act (22 U.S.C. 2779(a)) is amended—

(1) in paragraph (1), by striking ''; or'' and inserting a semicolon;

(2) in paragraph (2), by inserting ''or'' after the semicolon; and

(3) by adding at the end the following new paragraph:

''(3) exports of defense articles or defense services pursuant to a treaty referenced in section 38(j)(1)(C)(i) of this Act;''.

SEC. 105. LIMITATION ON IMPLEMENTING ARRANGEMENTS.

(a) IN GENERAL.—No amendment to an implementing arrangement concluded pursuant to a treaty referred to in section 38(j)(1)(C)(i) of the Arms Export Control Act, as added by this Act, shall enter into effect for the United States unless the Congress adopts, and there is enacted, legislation approving the entry into effect of that amendment for the United States.

(b) COVERED AMENDMENTS.—

(1) IN GENERAL.—The requirements specified in subsection (a) shall apply to any amendment other than an amendment that addresses an administrative or technical matter. The requirements in subsection (a) shall not apply to any amendment that solely addresses an administrative or technical matter.

(2) U.S.-UK IMPLEMENTING ARRANGEMENT.—In the case of the Implementing Arrangement Pursuant to the Treaty Between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland Concerning Defense Trade Cooperation, signed at Washington February 14, 2008, amendments to which the requirements specified in subsection (a) apply shall include—

(A) any amendment to section 2, paragraphs (1), (2), or (3) that modifies the criteria governing operations, programs, and projects to which the treaty applies;

(B) any amendment to section 3, paragraphs (1) or (2) that modifies the criteria governing end-use requirements and the requirements for approved community members responding to United States Government solicitations;

(C) any amendment to section 4, paragraph (4) that modifies the criteria for including items on the list of defense articles exempt from the treaty;

(D) any amendment to section 4, paragraph (7) that modifies licensing and other applicable requirements relating to items added to the list of defense articles exempt from the scope of the treaty;

(E) any amendment to section 7, paragraph (4) that modifies the criteria for eligibility in the approved community under the treaty for nongovernmental United Kingdom entities and facilities;

(F) any amendment to section 7, paragraph (9) that modifies the conditions for suspending or removing a United Kingdom entity from the approved community under the treaty;

(G) any amendment to section 7, paragraphs (11) or (12) that modifies the conditions under which individuals may be granted access to defense articles exported under the treaty;

(H) any amendment to section 9, paragraphs (1), (3), (7), (8), (9), (12), or (13) that modifies the circumstances under which United States Government approval is required for the re-transfer or re-export of a defense article, or to exceptions to such requirement; and

(I) any amendment to section 11, paragraph (4)(b) that modifies conditions of entry to the United Kingdom community under the treaty.

(3) U.S.-AUSTRALIA IMPLEMENTING ARRANGEMENT.—In the case of the Implementing Arrangement Pursuant to the Treaty Between the Government of the United States of America and the Government of the Australia Concerning Defense Trade Cooperation, signed at Washington March 14, 2008, amendments to which the requirements specified in subsection (a) apply shall include—

(A) any amendment to section 2, paragraphs (1), (2), or (3) that modifies the criteria governing operations, programs, and projects to which the treaty applies;

(B) any amendment to section 3, paragraphs (1) or (2) that modifies the criteria governing end-use requirements and the requirements for approved community members responding to United States Government solicitations;

(C) any amendment to section 4, paragraph (4) that modifies criteria for including items on the list of defense articles exempt from the scope of the treaty;

(D) any amendment to section 4, paragraph (7) that modifies licensing and other applicable requirements relating to items added to the list of defense articles exempt from the scope of the treaty;

(E) any amendment to section 6, paragraph (4) that modifies the criteria for eligibility in the approved community under the treaty for nongovernmental Australian entities and facilities;

(F) any amendment to section 6, paragraph (9) that modifies the conditions for suspending or removing an Australian entity from the Australia community under the treaty;

(G) any amendment to section 6, paragraphs (11), (12), (13), or (14) that modifies the conditions under which individuals may be granted access to defense articles exported under the treaty;

(H) any amendment to section 9, paragraphs (1), (2), (4), (7), or (8) that modifies the circumstances under which United States Government approval is required for the retransfer or re-export of a defense article, or to exceptions to such requirement; and

(I) any amendment to section 11, paragraph (6) that modifies conditions of entry to the Australian community under the treaty.

(c) CONGRESSIONAL NOTIFICATION FOR OTHER AMENDMENTS TO IMPLEMENTING ARRANGEMENTS.—Not later than 15 days before any amendment to an implementing arrangement to which subsection (a) does not apply shall take effect, the President shall provide to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives a report containing—

(1) the text of the amendment; and

(2) an analysis of the amendment's effect, including an analysis regarding why subsection (a) does not apply.

SEC. 106. IMPLEMENTING REGULATIONS.

The President is authorized to issue regulations pursuant to the Arms Export Control Act (22 U.S.C. 2751 et seq.) to implement and enforce the Treaty Between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland Concerning Defense Trade Cooperation, done at Washington and London on June 21 and 26, 2007 (and any implementing arrangement thereto) and the Treaty Between the Government of the United States of America and the Government of Australia Concerning Defense Trade Cooperation, done at Sydney, September 5, 2007 (and any implementing arrangement thereto), consistent with other applicable provisions of the Arms Export Control Act, as amended by this Act, and with the terms of any resolution of advice and consent adopted by the Senate with respect to either treaty.

SEC. 107. RULE OF CONSTRUCTION.

Nothing in this title, the Treaty Between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland Concerning Defense Trade Cooperation, done at Washington and London on June 21 and 26, 2007 (and any implementing arrangement thereto), the Treaty Between the Government of the United States of America and the Government of Australia Concerning Defense Trade Cooperation, done at Sydney, September 5, 2007 (and any implementing arrangement thereto), or in any regulation issued to implement either treaty, shall be construed to modify or supersede any provision of law or regulation other than the Arms Export Control Act (22 U.S.C. 2751 et seq.), as amended by this Act, and the International Traffic in Arms Regulations (subchapter M of chapter I of title 22, Code of Federal Regulations).

TITLE II—AUTHORITY TO TRANSFER NAVAL VESSELS

SEC. 201. SHORT TITLE.

This title may be cited as the ''Naval Vessel Transfer Act of 2010''.

SEC. 202. TRANSFER OF NAVAL VESSELS TO CERTAIN FOREIGN RECIPIENTS.

(a) TRANSFERS BY GRANT.—The President is authorized to transfer vessels to foreign countries on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j), as follows:

(1) INDIA.—To the Government of India, the OSPREY class minehunter coastal ships KINGFISHER (MHC–56) and CORMORANT (MHC–57).

(2) GREECE.—To the Government of Greece, the OSPREY class minehunter coastal ships OSPREY (MHC–51), BLACKHAWK (MHC–58), and SHRIKE (MHC–62).

(3) CHILE.—To the Government of Chile, the NEWPORT class amphibious tank landing ship TUSCALOOSA (LST–1187).

(4) MOROCCO.—To the Government of Morocco, the NEWPORT class amphibious tank landing ship BOULDER (LST–1190).

(b) TRANSFER BY SALE.—The President is authorized to transfer the OSPREY class minehunter coastal ship ROBIN (MHC–54) to the Taipei Economic and Cultural Representative Office of the United States (which is the Taiwan instrumentality designated pursuant to section 10(a) of the Taiwan Relations Act (22 U.S.C. 3309(a)) on a sale basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761).

(c) GRANTS NOT COUNTED IN ANNUAL TOTAL OF TRANSFERRED EXCESS DEFENSE ARTICLES.—The value of a vessel transferred to another country on a grant basis pursuant to authority provided by subsection (a) shall not be counted against the aggregate value of excess defense articles transferred in any fiscal year under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j).

(d) COSTS OF TRANSFERS.—Any expense incurred by the United States in connection with a transfer authorized by this section shall be charged to the recipient (notwithstanding section 516(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(e))).

(e) REPAIR AND REFURBISHMENT IN UNITED STATES SHIPYARDS.—To the maximum extent practicable, the President shall require, as a condition of the transfer of a vessel under this section, that the recipient to which the vessel is transferred have such repair or refurbishment of the vessel as is needed, before the vessel joins the naval forces of the recipient, performed at a shipyard located in the United States, including a United States Navy shipyard.

(f) EXPIRATION OF AUTHORITY.—The authority to transfer a vessel under this section shall expire at the end of the 2-year period beginning on the date of the enactment of this Act.

TITLE III—OTHER MATTERS

SEC. 301. EXPEDITED CONGRESSIONAL DEFENSE EXPORT REVIEW PERIOD FOR ISRAEL.

The Arms Export Control Act (22 U.S.C. 2751 et seq.) is amended—

(1) in sections 3(d)(2)(B), 3(d)(3)(A)(i), 3(d)(5), 21(e)(2)(A), 36(b), 36(c), 36(d)(2)(A), 62(c)(1), and 63(a)(2), by inserting ''Israel,'' before ''or New Zealand'' each place it appears; and

(2) in section 3(b)(2), by inserting ''the Government of Israel,'' before ''or the Government of New Zealand''.

SEC. 302. EXTENSION OF WAR RESERVES STOCKPILE AUTHORITY.

(a) DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2005.—Section 12001(d) of the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 1011) is amended by striking ''more than 4 years after'' and inserting ''more than 8 years after''.

(b) FOREIGN ASSISTANCE ACT OF 1961.—Section 514(b)(2)(A) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321h(b)(2)(A)) is amended by striking ''fiscal years 2007 and 2008'' and inserting ''fiscal years 2011 and 2012''.

COMBAT METHAMPHETAMINE ENHANCEMENT ACT

Mr. CASEY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 2923, which was received from the House and is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2923) to enhance the ability to combat methamphetamine.

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

Mr. CASEY. Mr. President, I ask unanimous consent the bill be read three times and passed; the motion to reconsider be laid upon the table, with no intervening action or debate; and any statements be printed in the RECORD.

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

The bill (H.R. 2923) was ordered to a third reading, was read the third time, and passed.

NATIONAL WORK AND FAMILY MONTH

Mr. CASEY. Mr. President, I ask unanimous consent the Judiciary Committee be discharged from further consideration of S. Res. 618 and the Senate proceed to its immediate 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. 618) designating October 2010, as ''National Work and Family Month.''

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

Mr. CASEY. Mr. President, I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements be printed in the RECORD.

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

The resolution (S. Res. 618) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 618

Whereas, according to a report by WorldatWork, a nonprofit professional association with expertise in attracting, motivating, and retaining employees, the quality of workers' jobs and the supportiveness of their workplaces are key predictors of workers' job productivity, job satisfaction, and commitment to employers and of employers' ability to retain workers;

Whereas, according to the 2008 National Study of Employers by the Families and Work Institute, employees in more flexible and supportive workplaces are more effective employees, are more highly engaged and less likely to look for a new job in the next year, and enjoy better overall health, better mental health, and lower levels of stress than employees in workplaces that provide less flexibility and support;

Whereas, according to a 2004 report of the Families and Work Institute entitled ''Overwork in America'', employees who are able to effectively balance family and work responsibilities are less likely to report making mistakes or feel resentment toward employers and coworkers;

Whereas, according to the ''Best Places to Work in the Federal Government'' rankings released by the Partnership for Public Service and American University's Institute for the Study of Public Policy Implementation, work-life balance and a family-friendly culture are among the key drivers of engagement and satisfaction for employees in the Federal workforce;

Whereas, according to a 2009 survey of college students by the Partnership for Public Service and Universum USA entitled ''Great Expectations! What Students Want in an Employer and How Federal Agencies Can Deliver It'', attaining a healthy work-life balance was an important career goal of 66 percent of the students surveyed;

Whereas a 2008 study by the Partnership for Public Service entitled ''A Golden Opportunity: Recruiting Baby Boomers into Government'' revealed that workers between the ages of 50 and 65 are a strong source of experienced talent for the Federal workforce and that nearly 50 percent of workers in that age group find flexible work schedules ''extremely appealing'';

Whereas finding a good work-life balance is important to workers in multiple generations;

Whereas employees who are able to effectively balance family and work responsibilities tend to feel healthier and more successful in their relationships with their spouses, children, and friends;

Whereas 85 percent of wage and salaried workers in the United States have immediate, day-to-day family responsibilities outside of their jobs;

Whereas, in 2000, research by the Radcliffe Public Policy Center revealed that men in their 20s and 30s and women in their 20s, 30s, and 40s identified a work schedule that allows them to spend time with their families as the most important job characteristic for them;

Whereas, according to the 2006 American Community Survey by the United States Census Bureau, 47 percent of wage and salaried workers in the United States are parents with children under the age of 18 who live with them at least half-time;

Whereas job flexibility often allows parents to be more involved in their children's lives and research demonstrates that parental involvement is associated with children's higher achievement in language and mathematics, improved behavior, greater academic persistence, and lower dropout rates;

Whereas the 2000 Urban Working Families study demonstrated that a lack of job flexibility for working parents negatively affects children's health in ways that range from children being unable to make needed doctors' appointments to children receiving inadequate early care, leading to more severe and prolonged illness;

Whereas, from 2001 to the beginning of 2008, 1,700,000 active duty troops served in Iraq and 600,000 members of the National Guard and Reserve (133,000 on more than one tour) were called up to serve in Iraq;

Whereas, because so many of those troops and National Guard and Reserve members have families, there needs to be a focus on policies and programs that can help military families adjust to the realities that come with having a family member in the military;

Whereas research by the Sloan Center for Aging and Work reveals that the majority of workers aged 53 and older attribute their success as an employee by a great or moderate extent to having access to flexibility in their jobs and that the majority of those workers also report that, to a great extent, flexibility options contribute to an overall higher quality of life;

Whereas studies show that ⅓ of children and adolescents in the United States are obese or overweight, and healthy lifestyle habits, including healthy eating and physical activity, can lower the risk of becoming obese and developing related diseases;

Whereas studies report that family rituals, such as sitting down to dinner together and sharing activities on weekends and holidays, positively influence children's health and development and that children who eat dinner with their families every day consume nearly a full serving more of fruits and vegetables per day than those who never eat dinner with their families or do so only occasionally;

Whereas unpaid family caregivers will likely continue to be the largest source of long-term care services in the United States for the elderly;

Whereas the Department of Health and Human Services anticipates that by 2050 the number of such caregivers will reach 37,000,000, an increase of 85 percent from 2000, as baby boomers reach retirement age in record numbers; and

Whereas the month of October is an appropriate month to designate as ''National Work and Family Month'': Now, therefore, be it

Resolved, That the Senate—

(1) designates October 2010 as ''National Work and Family Month'';

(2) recognizes the importance of work schedules that allow employees to spend time with their families to job productivity and to healthy families;

(3) urges public officials, employers, employees, and the general public to work together to achieve more balance between work and family; and

(4) calls upon the people of the United States to observe National Work and Family Month with appropriate ceremonies and activities.

NATIONAL SAVE FOR RETIREMENT WEEK

Mr. CASEY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 649, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 649) supporting the goals and ideals of ''National Save for Retirement Week,'' including raising public awareness of the various tax-preferred retirement vehicles and increasing personal financial literacy.

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

Mr. CASEY. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the resolution be printed in the RECORD.

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

The resolution (S. Res. 649) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 649

Whereas people in the United States are living longer, and the cost of retirement is increasing significantly;

Whereas Social Security remains the bedrock of retirement income for the great majority of the people of the United States but was never intended by Congress to be the sole source of retirement income for families;

Whereas recent data from the Employee Benefit Research Institute indicates that, in the United States, less than ⅔ of workers or their spouses are currently saving for retirement and that the actual amount of retirement savings of workers lags far behind the amount that will be needed to adequately fund their retirement years;

Whereas financial literacy is an important factor in United States workers' understanding of the true need to save for retirement;

Whereas saving for one's retirement is a key component to overall financial health and security during retirement years, and the importance of financial literacy in planning one's retirement must be advocated;

Whereas many workers may not be aware of their options for saving for retirement or may not have focused on the importance of, and need for, saving for their own retirement;

Whereas many employees have available to them, through their employers, access to defined benefit and defined contribution plans to assist them in preparing for retirement, yet many of those employees may not be taking advantage of those plans at all or to the full extent allowed by those plans as prescribed by Federal law;

Whereas the need to save for retirement is important, even during economic downturns or market declines, making continued contributions all the more important;

Whereas all workers, including public- and private-sector employees, employees of tax-exempt organizations, and self-employed individuals, can benefit from increased awareness of the need to develop personal budgets and financial plans that include retirement savings strategies and to take advantage of the availability of tax-preferred savings vehicles to assist them in saving for retirement; and

Whereas October 17 through October 23, 2010, has been designated as ''National Save for Retirement Week'': Now, therefore, be it

Resolved, That the Senate—

(1) supports the goals and ideals of ''National Save for Retirement Week'', including raising public awareness of the various tax-preferred retirement vehicles as important tools for personal savings and retirement financial security;

(2) supports the need to raise public awareness of the availability of a variety of ways to save for retirement which are favored under the Internal Revenue Code of 1986 and are utilized by many Americans, but which should be utilized by more;

(3) supports the need to raise public awareness of the importance of saving adequately for retirement and the continued existence of tax preferred employer-sponsored retirement savings vehicles; and

(4) calls on the States, localities, schools, universities, nonprofit organizations, businesses, other entities, and the people of the United States to observe National Save for Retirement Week with appropriate programs and activities, with the goal of increasing retirement savings for all the people of the United States.

NATIONAL CHILDHOOD LEAD POISONING PREVENTION WEEK

Mr. CASEY. I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 650, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 650) designating the week of October 24 through October 30, 2010, as ''National Childhood Lead Poisoning Prevention Week.''

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

Mr. CASEY. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the resolution be printed in the RECORD.

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

The resolution (S. Res. 650) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 650

Whereas lead poisoning is one of the leading environmental health hazards facing children in the United States;

Whereas approximately 200,000 children in the United States under the age of 6 have harmful levels of lead in their blood;

Whereas lead poisoning may cause serious, long-term harm to children, including reduced intelligence and attention span, behavioral problems, learning disabilities, and impaired growth;

Whereas children from low-income families are significantly more likely to be poisoned by lead than are children from high-income families;

Whereas children may be poisoned by lead in water, soil, housing, or consumable products;

Whereas children most often are poisoned in their homes through exposure to lead particles when lead-based paint deteriorates or is disturbed during home renovation and repainting; and

Whereas lead poisoning crosses all barriers of race, income, and geography: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week of October 24 through October 30, 2010, as ''National Childhood Lead Poisoning Prevention Week''; and

(2) calls upon the people of the United States to observe National Childhood Lead Poisoning Prevention Week with appropriate programs and activities.

NATIONAL RICE MONTH

Mr. CASEY. I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 651, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 651) recognizing the 20th anniversary of the designation of the month of September of 1991 as ''National Rice Month.''

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

Mr. CASEY. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the resolution be printed in the RECORD.

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

The resolution (S. Res. 651) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 651

Whereas rice is a primary staple for more than half of the population of the world and has been one of the most important foods throughout history;

Whereas rice production in the United States dates back to 1685 and is one of the oldest agribusinesses in the United States;

Whereas rice grown in the United States significantly contributes to the diet and economy of the United States;

Whereas rice is produced in the States of Arkansas, California, Louisiana, Mississippi, Missouri, and Texas;

Whereas rice production, processing, merchandizing, and related industries in the United States are vital to the economies of the rural areas of the Sacramento Valley in the State of California, the Gulf Coast region of the States of Louisiana and Texas, and the Mississippi Delta region where more than 3,000,000 acres of rice, on average, are produced annually;

Whereas, in 2009, rice farmers in the United States produced nearly 22,000,000,000 pounds of rice that had a farm gate value of more than $3,000,000,000;

Whereas, in 2009, rice production and subsequent sales generated $17,500,000,000 in total value added to the economy of the United States from rice production, milling, and selected end users and had the employment effect of contributing 127,000 jobs to the labor force;

Whereas eighty-five percent of the rice consumed in the United States is grown by American rice farmers, which supports rural communities and the economy of the United States;

Whereas the United States is one of the largest exporters of rice and produces more than two percent of the world's rice supply, feeding millions around the world;

Whereas rice is a food enjoyed throughout life in many forms, as the foundation of main dishes and side dishes, and as cereals, flour, bran, cooking oil, rice cakes, and other healthful snacks;

Whereas rice is an important source of nutritional value, as rice provides an excellent source of complex carbohydrates, and is cholesterol-free, sodium-free, and trans fat-free;

Whereas published research shows that people who eat rice have healthier diets;

Whereas rice farmers in the United States play a key role in the provision and enhancement of habitat for wetlands-dependant wildlife species, such as ducks, geese, swans, and cranes; and

Whereas the harvest of rice in the United States is celebrated each September and September 2010 marks the 20th anniversary of that annual celebration's designation: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the 20th anniversary of the designation of the month of September of 1991 as ''National Rice Month''; and

(2) encourages the people of the United States to observe National Rice Month with appropriate ceremonies and activities.

ORDERS FOR TUESDAY, SEPTEMBER 28, 2010

Mr. CASEY. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m., Tuesday, September 28; that on Tuesday, 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 after any leader remarks, there be a period of morning business until 11:10 a.m., with Senators permitted to speak therein for up to 10 minutes, during which period Senators may make tributes to the late Senator Ted Stevens; that at 11:10 a.m. there be 20 minutes of debate prior to a vote on the motion to invoke cloture on the motion to proceed to S. 3816, with the time equally divided and controlled between the leaders or their designees; that at 11:30 a.m. the Senate then proceed to vote on the motion to invoke cloture, as provided for under a previous order.

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

PROGRAM

Mr. CASEY. Mr. President, for the information of Senators, tomorrow former Senator Stevens will be laid to rest at Arlington National Cemetery. Buses will depart the Senate steps at 12:15 p.m. for Arlington.

I am correct, Mr. President, in stating that if cloture is not invoked on the motion to proceed to S. 3816, then there will be an immediate cloture vote on the motion to proceed to H.R. 3081?

The PRESIDING OFFICER. The acting leader is correct.

Mr. CASEY. Therefore, Senators should note that two rollcall votes could occur beginning at 11:30 a.m. tomorrow.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. CASEY. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that it stand adjourned under the previous order.

There being no objection, the Senate, at 10:01 p.m., adjourned until Tuesday, September 28, 2010, at 10 a.m.

NOMINATIONS

Executive nomination received by the Senate:

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

PAIGE EVE ALEXANDER, OF GEORGIA, TO BE AN ASSISTANT ADMINISTRATOR OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT, VICE DOUGLAS MENARCHIK, RESIGNED.