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Senate

The Senate met at 10 a.m. and was called to order by the Honorable TOM UDALL, a Senator from the State of New Mexico.

PRAYER

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

Let us pray.

Eternal God, hallowed be Your Name. Today, empower our lawmakers to run with patience the race that is set before them, looking to You, the author and finisher of our faith. Keep them from discouragement as You help them to be persistent in their efforts to meet today's challenges with faith and trust in You. Sustain them ever in Your grace and bestow upon them Your abundant Spirit.

Lord, give uncommon wisdom to the Joint Select Committee on Deficit Reduction. As its members strive to forge a deficit reduction plan, grant them wisdom and courage for the living of these days.

We pray in Your great Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable TOM UDALL 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, October 13, 2011.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TOM UDALL, a Senator from the State of New Mexico, to perform the duties of the Chair.

DANIEL K. INOUYE,
President pro tempore.

Mr. UDALL of New Mexico 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 leader remarks, the Senate will be in morning business until noon. The Republicans will control the first 30 minutes and the majority will control the next 30 minutes. At noon, the Senate will be in executive session to consider the Nathan, Hickey, and Forrest nominations. They are all nominated to be U.S. district court judges. We expect two rollcall votes at around 2 p.m. in relation to these nominations.

Additionally, there is a joint meeting of Congress today at 4 p.m. with the President of South Korea. Senators will gather on the floor at 3:40 p.m. to proceed to the House. We will do that together.

I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

Mr. MCCONNELL. 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.

RECOGNITION OF THE MINORITY LEADER

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

WELCOMING THE PRESIDENT OF SOUTH KOREA

Mr. MCCONNELL. Mr. President, later today, Senators will have the opportunity to hear from South Korean President Lee, and I know we all look forward to it.

South Korea is a stalwart ally that enjoys a flourishing economy. It is a shining example of how embracing democracy and free market principles can transform a society for the good.

Imagine, in 50 years, they went from a civil war to a military dictatorship to an evolving democracy and on the economic side to a thriving capitalist country that has the 13th largest economy in the world—from a country that was a recipient of foreign aid and Peace Corps volunteers to a country with its own foreign aid program and its own peace corps—all of that in 50 years, right on the same peninsula with one of the last Stalinist regimes in the world. It is a great success story that the United States has had an awful lot to do with promoting.

The South Korean Free Trade Agreement we passed overwhelmingly last night on a bipartisan basis will only make our two economies stronger. Our already strong alliance will be even stronger.

These agreements should serve as an example of the kind of bipartisan legislation Congress should be focused on right now.

Many of us have been amazed to witness, as I indicated earlier, the rapid growth and evolution of South Korea—truly a remarkable accomplishment.

So we welcome this great friend of the United States to our shores. We hope he and his wife have a memorable trip.

As we face together the threat of North Korea and the rapid changes occurring in the strategic balance in Northeast Asia, we look forward to an even stronger alliance with South Korea in the years to come.

I yield the floor.

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

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

WORKING TOGETHER

Mr. REID. Mr. President, I would just say, as my friend leaves—I know he has an appointment—the work that has been done in the last few weeks in the Senate has been very important. We have been able to work on the FEMA bill, we worked through the problems with that; China currency, we worked through that. Even though, as my friend, the distinguished Republican leader, knows, I did not agree with the trade bills—what they did—I think it is a good sign of our working together. In spite of strong feelings on both sides, people put that aside. There were no dilatory efforts made to hold them up, and we moved forward. I think that is commendable. That should be the pattern for the rest of this Congress.

I also want the RECORD to be spread with the fact that as far as congressional action, this legislation would not have happened but for the Republican leader. He has been laser focused for a long time, and there were some things we had to work through to get here, but one of the reasons I did what I did to help move this along is because of his feelings about the importance of this legislation.

JOBS

Mr. REID. Mr. President, we also need to focus on jobs. It is one of the most important things we can do—I believe the most important we can do. I am sorry that this week my Republican colleagues proved once again that the only jobs they care about are their own. They voted against a plan to create 2 million Americans jobs because they believed it was good Republican politics.

Meanwhile, 14 million unemployed Americans are worried about how they are going to make their rent, put food on the table, and fill their gas tank or how they are going to get another job interview.

These 14 million Americans could care less who proposed the plan or who gets credit to get them back to work. What they care about is that Congress gets to work putting them back to work.

Asked whether they support a plan to ask millionaires to pay their fair share to pay for tax cuts for middle-class families and small businesses, construction of roads and schools, and an extension of unemployment benefits, Americans have overwhelmingly said, yes, they support it.

The reason they do that is because, as we see in the newspaper articles around the country, the news stories: ''A quarter of U.S. millionaires pay taxes at a lower rate than some in middle class.'' It is about a 17-percent average. That is untoward.

Two-thirds of Americans support both the plan the Republicans blocked this week and the way it is paid for. Yet still, Republicans unanimously voted against these tax cuts, infrastructure investments, and jobs for teachers, police officers, and veterans. They voted, I repeat, against 2 million jobs for American workers.

My Republican colleagues pay lip service to the unemployment crisis in the country, but in the end actions speak louder than words.

As Congresswoman Barbara Jordan, the first African-American woman to be elected from the Deep South to Congress, once said:

> The citizens of America expect more. They deserve and they want more than a recital of problems.

The American people demand action. They deserve it. I hope my Republican colleagues would have a plan to create jobs, other than the constant talk about let's get rid of regulations, let's lower taxes.

Let's work together to create jobs. If my friends do not like what the President put forward, come forward with something that is constructive in nature. As Barbara Jordan said:

> The citizens of America expect more. They deserve and they want more than a recital of problems.

We can all recite the problems. There are lots of them. But let's work together to create some jobs.

I was happy to hear from some of my Republican colleagues that they want to work together to create jobs. I told one of the Senators: Wonderful. Grab any one of the Democrats; they will work with you to help create these jobs. We need to do something. We do not need to continue to recite the problems. Please get off of this, I say to my Republican friends, about lowering taxes as a way to create jobs. If that, in fact, were the case, the Bush tax cuts would have put this country on an economic machine that could never have been driven so fast. But it did not help.

Eight million jobs were lost during the Bush years with these tax cuts. During the Clinton years, 23 million jobs were created. Let's stop the constant cry: We need to lower taxes. None of us are in favor of raising taxes. But certainly we need a fair tax distribution, and that is why the American people are agreeing with us.

We are willing to work on regulations. There are too many of them. We all agree with that. But let's look specifically at what creates jobs.

One of the big issues we fought about last week was farm dust. OK. Farm dust. EPA does not regulate farm dust. They do not want to regulate farm dust. These are all just, as in the grocery business, loss leaders. It is only a way to confuse the American people. I repeat, EPA does not regulate farm dust. They do not want to regulate farm dust. Let's start talking about that which creates jobs, that which puts people back to work.

We are going to continue to do everything we can not to let the American people down. We will not stop working to pass the proposals contained in the American Jobs Act just because Republicans have used every obstructionist trick in the book to stop it from moving forward. We will continue to ask the richest Americans to share the burden of getting our economy back on track, and we will never give up in the fight to create jobs for the 14 million people in this country who are out of work.

Remember, the American Jobs Act reduces taxes for everybody, except those who make more than $1 million a year.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will be in a period of morning business until 12 p.m., with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the Republicans controlling the first 30 minutes and the majority controlling the second 30 minutes.

The Senator from Georgia is recognized.

SMALL BUSINESSES

Mr. ISAKSON. Mr. President, I wish to, first of all, kind of tag on to the remarks of the leader for just a second. One of the things I wish we would do in this body is get out of the business of demonizing certain segments of our population. Both sides are guilty of it, from time to time. But I wish to particularly talk about the major employer of the United States—small business—and the leader's reference to the 5.6-percent surtax.

Documents show that 392,000 American small businesses would be impacted by a 5.6-percent surtax in order to pay for the President's jobs bill. Records show that 72 percent of the American people are employed by small business.

We have to ask ourselves this question: If we are interested in creating jobs, why would we target the job creator that creates three-fourths of the jobs in America and put a surtax on them? It does not make any sense. If there were sincerity in that offer, those people would first and foremost be carved out on any punitive surtax and we probably would have more employment.

I wanted to make that point. I will join anytime, anyplace, anywhere with the leader to work on creating jobs because that is job one for the United States of America.

I was a small businessman for 33 years, ran a small business for 22 years.

I understand the heart and soul of small business. Today I come to the floor to talk about two small businesses in Georgia and the effect of regulation on those small businesses and the decisions they have made this year that impact employment and the economy.

One is a lovely lady named Susan Kolowich. Susan is a dear friend of my wife's. My wife worked for her for 13 years, has not worked for her in the last 5 or 6 years. She opened a shop in East Cobb County, in Marietta, GA, 23 years ago called C'est Moi—''It is I.'' She loves France. She would go to France every year and buy, and she would bring back gifts which she sold in her gift shop.

It was a successful small business for 23 years, so successful that her husband Jim, who had been a Subway sandwich shop owner, decided to open a restaurant called Cafe de Paris and join it with her C'est Moi shop so people could come and shop and eat and get a flavor of France. For 10 years he ran the restaurant and for 23 years she ran the store successfully. It was difficult in the last 3 or 4 years because of the economy, but they stayed in business. But finally she threw in the towel and sold the company. She sold her shop, and Jim, her husband, sold his restaurant. They sold them because they were up to here with the oppressive regulation of our government and the continued threat of things exactly like the surtax on their small business at a time in which sales are very difficult. That is not an abstract story, that is the truth. I am sure it is happening in Mississippi, and I am sure it is happening in Wyoming.

Let me talk about a little bit larger small business, Hennessy Jaguar and Hennessy Land Rover over in Atlanta, GA. One of the principals in it is a guy named Steve Hennessy. Steve is a good friend of mine.

On January 3 of this year, I went to the OK Cafe in Atlanta to join a couple for a meeting about some legislation. It is kind of the watering hole for breakfast in Atlanta. Everybody who is anybody kind of goes there. It is a great place to eat. When I walked in the door and walked past the cash register, where you can see out into the cafe, to see if my guests I was going to meet with were there, Steve spotted me. I was not going to meet with him. He jumped up and said: JOHNNY, I need to talk to you now. He ran across the restaurant. I thought he was going to give me a bear hug, he looked so excited. He got up close, and he put his index finger right on my chin. He said: I just fired a salesman and hired two compliance officers to comply with the credit requirements of Dodd-Frank.

So regulation did create two jobs. It created two compliance officers, but it cost a salesman. Well, if you are punishing the salesman and rewarding the compliance officer, the economy is going to go straight down because you are punishing productivity, you are punishing job creation for the sake of regulatory compliance.

Now, some regulation is good. I believe our job as legislators is to see to it that we mitigate risks for the American people. But this administration appears to think its job is to eliminate risk. Well, if you eliminate risk, you stay in bed—when you wake up in the morning, you stay there until night, you do not do anything because you do not take a risk. Capitalism is about risk. Risk and reward are about our economy.

So when people talk about regulatory oppression, those are two stories in Atlanta, GA, where regulation has actually caused two businesses to be sold and jobs to be lost and another business to hire two people to comply with government regulation and fire someone who was in sales. It is backward at best, and it is wrong.

So I say to the leader, who did make an acknowledgement that he wanted to mitigate regulation, let's sit down and let's find out what we need to do. Let's call a timeout. Let's do what Senator COLLINS from Maine said. Let's take a timeout for a year. Let's try to digest and absorb the regulations we have passed without continuing to put more threatening regulations on top of businesses at a time when we have 9.1 percent unemployment in America, and in my State we have 10.2. It is time for us to be proactive on taking the shackles off American small businesses, not threaten them with surtaxes and not oppress them with regulation. Instead, let's work to empower small businesses to help us come out of this recession.

I think my dear friend Senator BARRASSO, the physician from the great State of Wyoming, wants to address precisely the same subject I am.

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

Mr. BARRASSO. I am delighted to be joining my colleagues, Senator ISAKSON from Georgia, and Senator WICKER is here also from Mississippi. We think this is very important.

The leader started talking about today and said we need to focus on jobs. That is what we wanted to focus on for all of the time of the Obama administration. But, no, the President ignored jobs—ignored jobs his first year in office, ignored jobs his second year in office. Here we are more than halfway through his third year in office, and finally the President has noticed what has been on the minds of the American people.

This is a President and a majority leader who forced through this body a health care law that is bad for patients; bad for providers, the nurses and doctors who take care of those patients; and bad for taxpayers, ignoring what the American people said they wanted to focus on, which was jobs, the economy, the debt, the spending. We see a majority leader who led this body to adding more to the debt—now $14 trillion in debt—more debt, more spending, more money that is owed to China.

We need to put Americans to work. We need to get Americans back to work. The majority leader talked about 14 million Americans looking for jobs. There are over 4 million who have not worked for over a year. In that kind of a situation, it is going to be a lot harder for those folks to ever get a job again—ever get a job again.

And the regulations just keep on coming. A month ago, the President came to the Hill, visited, and had a joint session of Congress. He said: I want to get rid of some of these regulations. He said: I can identify regulations—he came out with a list of about $4 billion worth of regulations—to lower the cost of business over the next 5 years. But in the month of September alone, this administration came out with 230 proposed rules and 338 final rules. And if you go to what this administration says that those rules are going to cost the people of this country, cost the job creators of this country, even the administration, using their own numbers, that cost is going to be $10 billion.

I heard our colleague from Georgia talk about the paperwork, the compliance officers. Just yesterday, this administration came out, under Dodd-Frank, with new rules and regulations—proposed rules. They took only 11 pages of this massive bill, but only 11 pages, and when you look at the 298 pages of proposed rules that have come out, what do the government regulators, the Obama administration regulators, say it is going to cost the businesses of this country in terms of manhours having to be spent to comply with the paperwork? These aren't my numbers, these aren't Senators ISAKSON's numbers, these aren't Senator WICKER's numbers. Mr. President, 6,283,000 hours of paperwork. That is what the government experts say is going to have to be spent on paperwork to comply with one component of the Dodd-Frank law. How is that going to help? How is that kind of a drag on a society going to help create jobs?

You know, the President says: If the Republicans have ideas, we want to hear them. The majority leader stood here and said: If the Republicans have ideas, we want to hear them. Well, a month ago, a month ago to this day, when the President came to the Hill, earlier that morning a number of colleagues, House and Senate Members, came to talk about a Western Caucus Jobs Frontier bill, a number of bills Republicans have proposed breaking down Washington's barriers to America's red, white, and blue jobs.

The majority leader said we ought to spend more money. The President said we ought to spend more money. The President talked about his so-called stimulus plan, and he said it was going to save or create 3.5 million jobs. We have lost millions of jobs since this President came into office.

The President talked about green jobs. He said his clean-energy policies

would create 5 million new jobs. We have just seen the Solyndra situation—1,100 people fired because of bad bets by this administration. This is an administration that should not be betting with the taxpayers' money. It is not the administration's money. It is not the President's money. That is why the American people are so up in arms. They see what all of this spending is doing, and it is not helping jobs.

I see my colleague from Mississippi is here. We can go back and forth and talk about this. I know he has examples and situations in Mississippi. I see them in Wyoming all of the time, people having to deal with the redtape coming out of Washington. The President talks a pretty good game, but when you look at what is happening out there, the American people are very disappointed. The American people deserve better than what they are getting from this administration.

So I would ask my colleague from Mississippi whether there are things he sees happening to his friends and neighbors at home that we need to share with the rest of the country?

Mr. WICKER. Well, there is no question about it. I appreciate my two friends coming down and helping with this colloquy today.

There are two companies I want to talk about in a moment, but let me say at the outset that we all want to create jobs for Americans, there is no question about it. The President came into office wanting to create jobs. The problem is, he has not let history be a guide.

If we go ahead with this second stimulus bill, we will be following the same failed programs that not only have not created jobs for Americans, but, as a matter of fact, the policies have made things worse for Americans and for job creation. The President's proposal and the proposal the majority leader just embraced is a ''spend now, pay later'' approach. It is one that has been proven not to work. Three years after we tried this at the beginning of the President's term, we have not put more Americans back to work.

This should be a glaring reminder of the failures of the first stimulus package and the probability and likelihood that this second stimulus package would be met with the same result. What we have seen since the first stimulus is that the Federal debt has skyrocketed, there are nearly 2 million fewer jobs, and the economic growth is limping along at a meager 1 percent. So many other countries have a higher GDP growth than that. It is tragic that our country has not kept up. The unemployment rate has hovered at 9 percent for 30 months in a row. If you add in those who have given up looking for work or settled for part-time work, that number skyrockets from around 9 percent unemployment, which is an unspeakable number, to some 16 percent. In fact, some 6 million people have been without a job for more than 6 months.

We know the President's policies are not working. We have seen very slow movement and, frankly, in many instances, that movement has been backward. The big-government approach of spend now and pay later has simply been a wet blanket for America's job creators.

The fact is there are some things on which we can agree. In this time of divided government, we must approach the idea of job creation in a bipartisan manner. The House of Representatives is controlled by Republicans. This body is controlled by Democrats. The executive branch, including the regulatory regime in this country, is strictly controlled by the Democratic Party. So we need to work together in a step-by-step approach.

A comprehensive package of ''pass this bill, pass this bill immediately without amendments'' has been rejected by both Democrats and Republicans in this city, and we now need to embark on a step-by-step approach, and we can be quick about it. One example was yesterday. When we finally got around to it, the House of Representatives passed the trade bills, once the President sent them to us. That was done yesterday afternoon. By 7 or 8 last evening, the Senate passed all of these trade agreements on a huge bipartisan basis. So this is a step in the right direction. There are other things we can do. But I wish to commend the President for finally sending the trade bills to the Congress and for getting that done and opening the new markets. So that is a step.

The Senator from Georgia mentioned some companies and some potential job creators in his State. My friend from Wyoming asked me to talk about examples in Mississippi.

Actually, my wife Gail and I had an opportunity to participate in a christening of some boats in Gulfport, MS, just the day before yesterday. This was at the construction area of Trinity Yachts. I know what the initial reaction is: Why should we be concerned with yachts? I tell you why we should be concerned with yachts. Because we employ thousands upon thousands of Americans building those yachts.

I will never own a yacht. I don't aspire to even travel on a yacht. But I am glad there are a bunch of people around the world who want to buy them, because we employ a thousand people at Trinity Yachts, and we want to increase that.

As a matter of fact, what we helped christen the day before yesterday was not a yacht at all, it was two tugboats. Trinity Yacht makes tugboats, and they will be helping bring liquefied natural gas into the port of Pascagoula. So this shipyard built the tugs, Signet Maritime bought the tugs, and they will be creating jobs in Gulfport, and will be creating jobs at the Port of Pascagoula, and they want to create a lot more jobs.

I was told by the management and ownership of Trinity Yachts that business is a little soft in the shipyard. But if the President would simply go back to what we used to have in terms of oil and gas permitting, if we would lift this de facto ban on oil wells in the Gulf of Mexico and get back to the business we had year before last, then business could be great guns at Trinity Yachts.

We are not talking about yachts being constructed by Trinity, we are talking about oil and gas drilling platforms. The quicker permits and drilling projects in the Gulf of Mexico could bring about more than 200,000 new jobs in the next year. That is a job creator proposal that is simple. All we need to do is enforce the law that is currently on the books and get back to permitting so we can get back to producing our own energy.

The oil and natural gas sector is responsible for 9 million jobs, according to the Congressional Research Service, and we have in America the largest recoverable stores of natural gas, oil, and coal on Earth. So if you want to know another Republican proposal—which is a bipartisan proposal when you get down to it, because our gulf coast delegation consists of Republicans and Democrats—then here is a concrete proposal: Let's get back to producing our own energy resources in the Gulf of Mexico and elsewhere in the United States. Nine million jobs, and it could be more.

Mr. ISAKSON. The Senator from Mississippi jogged my memory, and I want to jog his. He was in the House of Representatives in 1994, if I am not mistaken. I got here in 1999. But I remember the first year of the Clinton administration, when they put a luxury tax on yachts, yacht construction went out of business and thousands of jobs were lost. I don't know if Trinity is a sub S, an LLC, or a sole proprietorship, but it is probably one of those three types of corporations, and I am sure it is a small business. They are going to have a 5.6-percent surtax on their income because of what is in the proposal of the President, which is, allegedly, to pay for a jobs bill. So this is deja vu all over again. The administration is imposing more taxes to pay for government jobs that take money out of the pockets of small business that creates the jobs in America.

Trinity Yachts—and I will do some research to find out if that is true, because I don't know the company—I will bet is one of the ones that pays their taxes as if they were an individual, and they would be affected by the tax the President is proposing, just like the yacht industry that was put out of business in 1993 because of the Clinton tax. So the Republicans took over in 1994 and reformed the Tax Code and cut Federal spending.

Mr. WICKER. The point is, they are a bunch of average, hard-working Mississippians, average, hard-working Americans, who are glad to come to work each day, working hard to build these boats, and we ought to encourage them.

I don't know the corporate structure of that particular job creator, but I know the larger point is that many of the job creators do pay taxes at the individual level. We know from research that four out of five of the taxpayers who would pay the higher taxes being proposed by the President are business owners—the very people we are hoping will create jobs, and create them soon for Americans.

Mr. ISAKSON. I thank the Senator from Mississippi for his stories, which are true and to the point. My story was about two small businesses. And I thank the Senator physician from the great State of Wyoming, and I would ask if he has any additional remarks.

Mr. BARRASSO. Well, I know you see this in Georgia and in Mississippi. We know what doesn't work. We know what doesn't work is more borrowing and more spending and overregulation and the threat of raising taxes on people and the job creators of this country. So there is much to be done, and that is why we actually came out with this Jobs Frontier—the western caucus did—because we want to increase affordable American energy.

The President, when he was running for office, said under his proposals electricity costs would necessarily skyrocket. If you want a productive, vibrant economy, you need low-cost energy, and if you want a secure nation, you need American energy to do that. So when my colleague from the Gulf State of Mississippi talks about energy in the gulf, there is a lot there. I can talk about Wyoming from the standpoint of energy being available on Federal land, which is being blocked by regulations. We ought to be exploring for that energy as well as in Alaska. So there is much we can do to make our country stronger, safer, more secure, better, and more vibrant, but the proposal put forth by the President—and here I agree with my colleague from Mississippi—is another spending bill—just spending—as the first stimulus was. It is a bill that is not going to do what we need to do to get this economy going in a vibrant sense. From my perspective, the No. 1 thing we should do is stop doing what we know doesn't work.

Mr. ISAKSON. Well, I want to conclude, unless the Senator from Mississippi has anything to add.

Mr. WICKER. Well, just to say this, and I will take a minute to say it and then I will thank my friend from Georgia for taking the lead on this colloquy.

We also need to show job creators that we are actually serious about fixing our fiscal house. You know, we have had the Gang of 6, we have had the Simpson-Bowles Commission, we have had Dr. COBURN and Senator LIEBERMAN with a proposal, and we have had Alice Rivlin's proposal—an expert on budgetary matters. We know the solutions that are out there, and they are hard to do politically. They would subject us all to intense political criticism and a firestorm. But if we do it on a bipartisan basis for the good of this country now, for the good of not only job creators today and people out there who are dying to come back to work but also for future generations, then we can do the right thing.

I will simply say this: I call on the President of the United States to give us some leadership on working together on a bipartisan basis to make these tough decisions. If we do it together, as Ronald Reagan and Tip O'Neill did in the 1980s, we can make the case to the American people that sometimes you have to do hard things, but we do things on a bipartisan basis to create jobs and to make a better future for future generations. It will not be done unless the Chief Executive of the United States of America comes forward and signals a willingness to hold hands with us and do the right thing for the future.

I desperately hope in these final months of 2011 we can get that signal sent to the committee of 12, and that we can work together to make major, significant structural changes that will save our fiscal future.

I thank my colleague.

Mr. ISAKSON. Mr. President, I thank the Senator from Mississippi, and I will close by simply saying you have heard three Republicans this morning talking about differences we might have on regulation and on tax policy, but you have also heard the distinguished Senator from Mississippi, the physician Senator from Wyoming, and myself, from the State of Georgia, say we are ready, we are willing, and we are hopeful that we can sit down together as a Congress—not as a partisan Congress but as a bipartisan Congress—and find solutions to the regulatory problems, find incentives for businesses to invest, and find ways we can create jobs in the private sector, because in the end that is where job creation takes place.

I will end with where Senator REID started in his remarks. Yesterday was a landmark day. Republicans and Democrats came together and passed three free-trade agreements which will create jobs in the United States of America. Our problem is we waited almost a thousand days to do it. Let's start accelerating those decisions that must be made to bring us together. Let's find ways to cut our spending, empower our businesses, and find ways to regulate in a positive way, not in a suppressive and oppressive way on American small businesses.

Senator WICKER, Senator ISAKSON, and Senator BARRASSO are three who stand ready to join in doing that, anytime, anyplace, anywhere.

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

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

The legislative clerk proceeded to call the roll.

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

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

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent to speak in morning business for 15 minutes.

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

CLIMATE CHANGE

Mr. WHITEHOUSE. Mr. President, I am here to speak about what is currently an unpopular topic in this town. It has become no longer politically correct in certain circles in Washington to speak about climate change or carbon pollution or how carbon pollution is causing our climate to change.

This is a peculiar condition of Washington. If you go out into, say, our military and intelligence communities, they understand and are planning for the effects of carbon pollution on climate change. They see it as a national security risk. If you go out into our nonpolluting business and financial communities, they see this as a real and important problem. And, of course, it goes without saying our scientific community is all over this concern. But as I said, Washington is a peculiar place, and here it is getting very little traction.

Here in Washington we feel the dark hand of the polluters tapping so many shoulders. And where there is power and money behind that dark hand, therefore, a lot of attention is paid to that little tap on the shoulder. What we overlook is that nature—God's Earth—is also tapping us all on the shoulder, with messages we ignore at our peril. We ignore the messages of nature—of God's Earth—and we ignore the laws of nature—of God's Earth—at our very grave peril.

There is a wave of very justifiable economic frustration that has swept through our Capitol. The problem is that some of the special interests—the polluters—have insinuated themselves into that wave, sort of like parasites that creep into the body of a host animal, and from there they are working terrible mischief. They are propagating two big lies. One is that environmental regulations are a burden to the economy and we need to lift those burdens to spur our economic recovery. The second is the jury is still out on climate changes caused by carbon pollution, so we don't need to worry about it or even take precautions. Both are, frankly, outright false.

Environmental regulation is well established to be good for the economy. It may add costs to you if you are a polluter, but polluters usually exaggerate about that.

For instance, before the 1990 acid rain rules went into effect, Peabody Coal estimated that compliance would cost $3.9 billion. The Edison Electric Institute chimed in and estimated that compliance would cost $4 to $5 billion. Well, in fact, the Energy Information

Administration calculated the program actually cost $836 million, about one-sixth of the Edison Electric Institute estimate.

When polluters were required to phase out the chemicals they were emitting that were literally burning a hole through our Earth's atmosphere, they warned that it would create ''severe economic and social disruption'' due to ''shutdowns of refrigeration equipment in supermarkets, office buildings, hotels, and hospitals.'' Well, in fact, the phaseout happened 4 years to 6 years faster than predicted; it cost 30 percent less than predicted; and the American refrigeration industry innovated and created new export markets for its environmentally friendly products.

Anyway, the real point is we are not just in this Chamber to represent the polluters. We are supposed to be here to represent all Americans, and Americans benefit from environmental regulation big time.

Over the lifetime of the Clean Air Act, for instance, for every $1 it costs to add pollution controls, Americans have received about $30 in health and other benefits. By the way, installing those pollution controls created jobs because they went to manufacturers to build the controls and to Americans to install them. But setting that aside, a 30-to-1 benefit ratio to keep our air clean sounds like a mighty wise investment to me. That 30-to-1 ratio doesn't even count the intangible benefits—intangible but very real benefits—of clear air and clean water, the benefits of the heart and the soul, the benefits to a grandfather of taking his granddaughter to the fishing hole and still finding fish there or of the city kid being able to go to a beach and have it clean enough to swim there or the benefit to a mom who is spared the burden of worry, of sitting next to her asthmatic baby on the emergency room albuterol inhaler waiting for his infant lungs to clear.

Well, unfortunately, polluters rule in certain circles in Washington, and they emit propaganda as well as pollution, and they have been emitting too much of both lately.

Their other big lie the jury is still out on is whether human-made carbon pollution causes dangerous climate change and oceanic change. Virtually all of our most prestigious scientific and academic institutions have stated that climate change is happening and that human activities are the driving cause of this change. Many of us in Congress received a letter from those institutions in October 2009. Let me quote from that letter.

> Observations throughout the world make it clear that climate change is occurring, and rigorous scientific research demonstrates that the greenhouse gases emitted by human activities are the primary driver. These conclusions are based on multiple independent lines of evidence, and contrary assertions are inconsistent with an objective assessment of the vast body of peer-reviewed science.

Let me repeat that last quote.

> Contrary assertions are inconsistent with an objective assessment of the vast body of peer-reviewed science.

This letter was signed by the heads of the following organizations: the American Association for the Advancement of Science, the American Chemical Society, the American Geophysical Union, the American Institute of Biological Sciences, the American Meteorological Society, the American Society of Agronomy, the American Society of Plant Biologists, the American Statistical Association, the Association of Ecosystem Research Centers, the Botanical Society of America, the Crop Science Society of America, the Ecological Society of America, the Natural Science Collections Alliance, the Organization of Biological Field Stations, the Society for Industrial and Applied Mathematics, the Society of Systematic Biologists, the Soil Science Society of America, and the University Corporation for Atmospheric Research.

These are highly esteemed scientific organizations. They are the real deal. They don't think the jury is still out. They recognize that, in fact, the verdict is in, and it is time to act.

More than 97 percent of the climate scientists most actively publishing accept that the verdict is actually in on carbon pollution causing climate and oceanic changes—97 percent. Think of that.

Imagine if your child were sick and the doctor said she needed treatment, and out of prudence you went and got a second opinion. Then you went around and you actually got 99 second opinions. When you were done, you found that 97 out of 100 expert doctors agreed your child was sick and needed treatment. Imagine further that of the three who disagreed, some took money from the insurance company that would have to pay for your child's treatment. Imagine further that none of those three could say they were sure your child was OK, just that they weren't sure what her illness was or that she needed treatment, that there was some doubt.

On those facts, name one decent father or mother who wouldn't start treatment for their child. No decent parent would turn away from the considered judgment of 97 percent of 100 doctors just because they weren't all absolutely certain.

How solid is the science behind this? Rock solid. The fact that carbon dioxide in the atmosphere absorbs heat from the Sun was discovered at the time of the Civil War. This is not new stuff. In 1863 the Irish scientist John Tyndall determined that carbon dioxide and water vapor trapped more heat in the atmosphere as their concentrations increased. A 1955 textbook, ''Our Astonishing Atmosphere,'' notes that nearly a century ago the scientist, John Tyndall, suggested that a fall in the atmospheric carbon dioxide could allow the Earth to cool, whereas a rise in carbon dioxide would make it warmer.

In the early 1900s, a century ago, it became clear that changes in the amount of carbon dioxide in the atmosphere might account for significant increases and decreases in the Earth's average annual temperatures and that carbon dioxide released from manmade sources, anthropogenic sources—primarily by the burning of coal—would contribute to those atmospheric changes. This is not new stuff. These are well-established scientific principles.

Let me look for a moment at the book I talked about, ''Our Astonishing Atmosphere,'' published in 1955—the year I was born, more than half a century ago—for the ''Science for Every Man Series.'' Let me read:

> Although the carbon dioxide in the atmosphere remains at a concentration of 0.03 percent all over the world, the amount in the air has not always been the same. There have been periods in the world's history when the air became charged with more carbon dioxide than it now carries. There have also been periods when the concentration has fallen unusually low. The effects of these changes have been profound. They are believed to have influenced the climate of the earth by controlling the amount of energy that is lost by the earth into space. Nearly a century ago, the British scientist John Tyndall suggested that a fall in the atmospheric carbon dioxide could allow the earth to cool whereas a rise in the carbon dioxide would make it warmer. With the help of its carbon dioxide, the atmosphere acts like a greenhouse that traps the heat of the sun. Radiations reaching the atmosphere as sunshine can penetrate to the surface of the earth. Here, they are absorbed, providing the world with warmth. But the earth itself radiating energy outwards in the form of long-wave heat rays. If these could penetrate the air as the sunshine does, they could carry off much of the heat provided by the sun. Carbon dioxide in the air helps to stop the escape of heat radiations. It acts like a blanket to keep the world warm. And the more carbon dioxide the air contains, the more efficiently does it smother the escape of the earth's heat. Fluctuation in the carbon dioxide of the air has helped to bring about major climate changes experienced by the world in the past.

This is 1955. This is ''Our Astonishing Atmosphere,'' out of the ''Science for Every Man Series.'' This is not something that was just invented.

Let's look at the facts that we actually observe in our changing planet. Over the last 800,000 years—8,000 centuries—until very recently the atmosphere has stayed within a bandwidth of between 170 parts per million and 300 parts per million of carbon dioxide. That is not theory, that is measurement. Scientists measure historic carbon dioxide concentrations by, for example, locating trapped bubbles in the ice of ancient glaciers. So we know, over time—and over long periods of time—what the range has been.

What else do we know? We know since the industrial revolution, we—humankind—have been burning carbon-rich fuels in measurable and ever-increasing amounts. We know we release up to 7 to 8 gigatons of carbon dioxide each year. A gigaton, by the way, is 1 billion metric tons. So if you are going to release 7 to 8 billion metric tons a

year into the atmosphere, predictably that increases carbon concentration in our atmosphere. ''Put more in and find more there'' is not a complex scientific theory. It is not a difficult proposition. And 7 to 8 billion metric tons a year into the atmosphere is a very big thing in the historical sweep.

So we now measure carbon concentrations climbing in the Earth's atmosphere. Again, this is a measurement, not a theory. The present concentration exceeds 390 parts per million.

So 800,000 years and a bandwidth of 170 to 300 parts per million, and now we are over 390.

This increase has a trajectory. Plotting trajectories is nothing new either. It is something scientists, businesspeople, and our military service people do every day. The trajectory for our carbon pollution predicts that 688 parts per million will be in the atmosphere in the year 2095 and 1,097 parts per million in the year 2195. These are carbon concentrations not outside of the bounds of 800,000 years but outside of the bounds of millions of years. As Tyndall determined at the time of the Civil War, increasing carbon concentrations will absorb more of the Sun's heat and raise global temperatures.

Let me end by reviewing the scale of the peril that we are facing if we fail to act. Over the last 800,000 years, as I said, it has been 170 to 300 parts per million of carbon dioxide. Since the start of the industrial revolution, that concentration is now up to 390 parts per million. If we continue on the trajectory that we find ourselves, our grandchildren will see carbon concentrations in the atmosphere top 700 parts per million by the end of the century, twice the bandwidth top that we have lived in for 8,000 centuries.

To put that in perspective, mankind has engaged in agriculture for about 10,000 years. It is not clear we had yet mastered fire 800,000 years ago. The entire development of human civilization has taken place in that 800,000 years, and within that 170 to 300 parts per million bandwidth. If we go back, we are back into geologic time.

In April of this year, a group of scientific experts came together at the University of Oxford to discuss the current state of our oceans. The workshop report stated:

> Human actions have resulted in warming and acidification of the oceans and are now causing increasing hypoxia.

Acidification is obvious—the ocean is becoming more acid; hypoxia means low oxygen levels.

> Studies of the Earth's past indicate that these are the three symptoms . . . associated with each of the previous five mass extinctions on Earth.

We experienced two mass ocean extinctions 55 and 251 million years ago. The rates of carbon entering the atmosphere in the lead-up to these extinctions are estimated to have been 2.2 and 1 to 2 gigatons of carbon per year respectively, over several thousand years. As the group of Oxford scientists noted:

> Both these estimates are dwarfed in comparison to today's emissions.

As I said earlier, those are 7 to 8 gigatons per year. The workshop participants concluded with this quote:

> Unless action is taken now, the consequences of our activities are at a high risk of causing, through the combined effects of climate change, overexploitation, pollution and habitat loss, the next globally significant extinction event in the ocean.

The laws of physics and the laws of chemistry and the laws of science these are laws of nature. These are laws of God's Earth. We can repeal some laws around here but we can't repeal those. Senators are used to our opinions mattering a lot around here, but these laws are not affected by our opinions. These laws do not care who peddles influence, how many lobbyists you have or how big your corporate bankroll is. Those considerations, so important in this town, do not matter at all to the laws of nature.

As regards these laws of nature, because we can neither repeal nor influence them, we bear a duty, a duty of stewardship to see and respond to the facts that are before our faces according to nature's laws. We bear a duty to shun the siren song of well-paying polluters. We bear a duty to make the right decisions for our children and grandchildren and for our God-given Earth.

Right now I must come before the Chamber and remind this body that we are failing in that duty. The men and women in this Chamber are indeed catastrophically failing in that duty. We are earning the scorn and condemnation of history—not this week, perhaps, and not next week. The spin doctors can see to that. But ultimately and assuredly, the harsh judgment that it is history's power to inflict on wrong will fall upon us. The Supreme Being who gave us this Earth and its abundance created a world not just of abundance but of consequence and that Supreme Being gave us reason to allow us to plan for and foresee the various consequences that those laws of nature impose.

It is magical thinking to imagine that somehow we will be spared the plain and foreseeable consequences of our failure of duty. There is no wizard's hat and wand with which to wish this away. These laws of nature are known; the Earth's message to us is clear; our failure is blameworthy; its consequences are profound; and the costs will be very high.

I thank the Senator from Arkansas for his indulgence for the extra time, and I yield the floor.

Mr. UDALL of New Mexico. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BROWN of Ohio). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMERICAN JOBS ACT

Mr. CARDIN. Mr. President, I take this time to comment on a vote that took place earlier this week that the people of this Nation are having a hard time understanding—why the Republicans are filibustering legislation that will allow us to consider job growth in America. It is a filibuster, and that happens so frequently in this body that it seems to be standard operating procedure for the Republicans. But in this case I think the American public realizes they have gone too far.

We have to create more jobs. We have to create more jobs so our economy can grow. There are millions of Americans who are seeking work and cannot find jobs and they need work in order to support their families. We need more jobs for our economy to grow.

We got into a debate in August about what we were going to do about raising the debt ceiling and we were all concerned about the deficits this country has. Yes, we are concerned that our current deficits are not sustainable, but we will not have a budget that is sustainable unless we have more jobs. You can look at all of the programs to reduce government spending or to try to bring in more revenues, but if we do not create more jobs we are not going to be able to get our budget into a semblance of order.

The reason for that is simple. The more people out of work, the more reliant they are on government services and the less taxes paid in to pay our bills. So for the sake of those who are seeking employment, for the sake of our economy, for the sake of our budget, we have to create more jobs.

We had a vote this week on moving forward on S. 1660, the President's jobs initiative. It was a motion to proceed. It was a motion to bring the bill to the floor so we could get into a debate about the best way to create jobs. Many of us thought we would have amendments that would enhance and improve the President's package. The President's package was a starting point for our debate. But the Republicans said no, we are going to filibuster even the opportunity for us to consider jobs legislation. They wouldn't even allow us to move forward.

We had a majority of the Senate. We had enough votes to pass it or at least proceed if it were a simple majority, which is what most democracies believe is the right standard. But, no, we had a filibuster that did not even allow us to consider the jobs bill on the floor of the Senate.

I find that most surprising. When you look at the President's proposal, the individual provisions have bipartisan support. This is not a Democratic proposal. Every one of the provisions that

the President included in his package had bipartisan support. The Congressional Budget Office said the President's proposal would actually reduce the deficit and would create jobs. It has been validated by the outside experts. Marc Zandi, the chief economist at Moody's—he was also, by the way, the economic adviser to Senator MCCAIN during the 2008 Presidential campaign—said, talking about the President's plan, ''The plan would add 2 percentage points to GDP growth next year, add 1.9 million jobs, and cut the unemployment rate by a full percentage point.''

There are many others. Macroeconomic Advisers said that the President's package would:

> Boost the level of GDP by 1.3 percent by the end of 2012, and by 0.2 percent by the end of 2013—

In other words, we are moving in the right way; and then went on to say:

> Raise nonfarm establishment employment by 1.3 million by the end of 2012 and 0.8 million by the end of 2013. . . .

The Economic Policy Institute estimates that the President's job bill would create 2.6 million jobs over 2 years and protect an existing 1.6 million jobs.

Republicans say we cannot even talk about this on the floor, the majority shouldn't at least be able to bring forward this issue so we can have a full debate in the Senate.

The President's proposals included areas in which I think there is strong bipartisan support—to help small businesses. We all know small businesses are the growth engine of America. That is where jobs are created. That is where most innovation will take place. The proposal would help small businesses with new hires on their payroll and expensing of investments so they have an incentive to invest in job growth. That is what was in the President's proposal to help small businesses.

In the President's proposal was help for our veterans. We all talk about our warriors, our soldiers, out there every day protecting our values. They have represented America so brilliantly in international combat. Now they are coming home to America. They are coming home and they cannot find work, cannot find a job. The President is saying let's help them. We all talk about doing what we can to help our warriors. This bill did something tangible about it.

What did the Republicans do? They filibustered an opportunity to even talk about a bill that could help create more jobs.

The proposal also provides for infrastructure. Infrastructure is building. It is rebuilding America. Democrats and Republicans agree on that. We have to rebuild our bridges and our roads. The bridges are falling down. Roads are in desperate need of repair. Roads help provide economic growth for our country. It would help us rebuild America, create jobs through those who construct these new roads and bridges and electric grids, et cetera, but then also make America more competitive.

It would help those who are unemployed in several ways. First, it would provide not just unemployment benefits, which are important because they help families keep their homes and keep their family together and help our economy because that money is spent, it also reforms the unemployment system, so we train those who are out of work for jobs that are available. In many cases, as the Presiding Officer from Ohio knows, those who have lost their jobs are going to have to find employment in a different area. Well, the unemployment system should be reformed so that they could be trained for those types of jobs. That was in the proposal the Republicans would not even allow us to bring up. They filibustered rather than allow the majority to bring forward a bill to help create jobs.

The bill was paid for. As I have indicated before, it didn't increase the deficit. The Congressional Budget Office said it would actually reduce the deficit.

I want to make the point I made earlier and underscore this: The motion to proceed was the starting point for the debate—the starting point. I had three amendments I wanted to bring forward—I am going to talk very briefly about those three amendments—that I think would have improved the President's bill.

One would allow the Small Business Administration surety bond program—this is a program that gives small construction companies the ability to move forward with construction work. It would increase the surety bond program from $2 million to $5 million. It was an amendment I offered to the American Recovery and Reinvestment Act. Let me tell you about the success of that program. As a result of increasing the surety bonds from $2 million to $5 million, we saw a jump of 36 percent in 1 year, 2010, in construction work for small businesses. That is quite a success story. Guess how much money that cost the taxpayers of this country in direct costs. Zero, no cost to the taxpayer. Well, my amendment would make that extension permanent. And it is bipartisan—Democrats and Republicans support it.

I have another amendment that would expand the infrastructure work to include water projects. Water projects are in desperate need. We have a huge need to deal with the way we treat wastewater and our safe drinking water. My amendment would add $30 billion for infrastructure in our water projects. It would provide $20 billion to the Clean Water State Revolving Fund and $10 billion to the Safe Drinking Water Act.

I would like to talk about one more amendment, which is the cool roof bill I filed with Senator CRAPO which would change the depreciation schedule for those businesses that put on modern roofs that are energy efficient and would create 40,000 jobs and help our energy policy. This is another amendment I cannot bring forward because the Republicans filibustered the motion to proceed, so we can't bring up the jobs bill.

Well, Americans want us to consider jobs legislation. I hope we find a way to do it. I can tell you that I am going to continue the fight to create more jobs for America because that is America's future. Our economy depends upon it, and we need to continue to focus on how we can create more jobs for the American economy.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

HONORING OUR ARMED FORCES

MASTER SERGEANT CHRISTIAN RIEGE

Mr. JOHANNS. Mr. President, I rise today to remember a fallen hero, U.S. Army National Guard Master Sergeant Christian Riege. He and two fellow officers were killed when a gunman opened fire at a Carson City International House of Pancakes on September 6, 2011. This was a tragic event. It ultimately took the lives of four people and left hollow hearts from Nevada to Nebraska, where his father and mother and several relatives live.

Master Sergeant Riege enlisted in the U.S. Navy in 1992. As a career noncommissioned officer, Chris spent much of his time in uniform training young soldiers. He entered the Nebraska National Guard after his service in the Navy. Like many National Guard NCOs, he held more than one military occupational specialty. With experience as an infantry soldier and knowledge of mechanics and supply logistics, Chris set the standard high for the soldiers he trained. He excelled in physical fitness, and he was a natural teacher. He served a 22-month deployment in Fort Irwin, California with the task of training units deploying for overseas contingency missions.

Chris most recently served with the 1st of the 221st Cavalry in Afghanistan, earning his combat spurs during this tour. The decorations and badges earned over his distinguished career include the Combat Action Badge, the Meritorious Unit Commendation with oak leaf cluster, the Legion of Merit, the Meritorious Service Medal with oak leaf cluster, the Army Commendation Medal, the Army Achievement Medal with four oak leaf clusters, the Armed Forces Expeditionary Medal, the Southwest Asia Service Medal, and the Afghanistan Campaign Medal with one campaign star.

Chris is remembered as a soft-spoken warrior with a love for fixing things.

A fellow soldier and friend, Master Sergeant Paul Kinsey, made reference to his demeanor:

> You can't just label him with one word or one phrase. Still waters run deep.

The Riege family laid their soldier to rest in Page, Nebraska, on September 17, 2011. Today, I join the family and

friends of Master Sergeant Riege in mourning the death of their son, father, fiancé, friend, and fellow soldier. Nebraska is honored to call him one of our own, and I know both Nebraskans and Nevadans will surround his family during this very difficult time. As we honor this hero, may his children—Serrah, Erica, Synde, and Michael—always know the bravery with which their father served and the love he had for them.

May God bless the Riege family and all of our service men and women, both here and abroad.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. CARDIN. I ask that the order for the quorum call be rescinded.

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

RACIAL PROFILING

Mr. CARDIN. Mr. President, last week I introduced legislation in the Senate that would prohibit the use of racial profiling by Federal, State, or local law enforcement agencies. The End Racial Profiling Act, S. 1670, had been introduced in previous Congresses by our former colleague, Senator Russ Feingold of Wisconsin, and I am proud to follow his leadership. I thank my colleagues, Senator BLUMENTHAL, Senator DURBIN, Senator GILLIBRAND, Senator KERRY, Senator LAUTENBERG, Senator LEVIN, Senator MENENDEZ, Senator MIKULSKI, and Senator STABENOW, for joining me as original cosponsors of this legislation.

Racial profiling is ineffective. The more resources that are spent investigating individuals solely because of their race or religion, the fewer resources that are being directed at suspects actually demonstrating illegal behavior.

In response to a question about the December 2001 bomb attempt by Richard Reid, Former Department of Homeland Security Secretary Michael Chertoff stated:

> The problem is that the profile many people think they have of what a terrorist is doesn't fit the reality . . . and, in fact, one of the things that the enemy does is to deliberately recruit people who are Western in background or in appearance, so that they can slip by people who might be stereotyping.

Racial profiling diverts scarce resources from real law enforcement. In my own State of Maryland in the 1990s, the ACLU brought a class action suit against the Maryland State Police for illegally targeting African-American motorists for stops and searches along Maryland's highways. The parties ultimately entered into a Federal court consent decree in 2003 in which they made a joint statement that emphasized in part:

> The need to treat motorists of all races with respect, dignity, and fairness under law is fundamental to good police work and a just society. The parties agree that racial profiling is unlawful and undermines public safety by alienating communities.

Racial profiling demonizes entire communities and perpetuates negative stereotypes based on an individual's race, ethnicity, or religion.

I agree with Attorney General Holder's remark to the American-Arab Anti-Discrimination Committee where he stated:

> In this Nation, security and liberty are—at their best—partners, not enemies, in ensuring safety and opportunity for all . . . In this Nation, the document that sets forth the supreme law of the land—the Constitution—is meant to empower, not exclude . . . Racial profiling is wrong. It can leave a lasting scar on communities and individuals. And it is, quite simply, bad policing—whatever city, whatever state.

Using racial profiling makes it less likely that certain affected communities will voluntary cooperate with law enforcement and community policing efforts. Minorities living and working in these communities may also feel discouraged from traveling freely, and it corrodes the public trust in government.

I wish to thank the Leadership Conference on Civil and Human Rights for their endorsement of this legislation. I ask unanimous consent that the endorsement letter of September 14, 2011, from over 50 different organizations be printed in the RECORD.

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

THE LEADERSHIP CONFERENCE
ON CIVIL AND HUMAN RIGHTS,
Washington, DC, Sept. 14, 2011

COSPONSOR THE END RACIAL PROFILING ACT OF 2011

DEAR SENATOR: on behalf of The Leadership Conference on Civil and Human Rights, and the undersigned groups, we urge you to be an original cosponsor of the End Racial Profiling Act of 2011 (ERPA). Passage of this bill is needed to put an end to racial profiling by law enforcement officials and to ensure that individuals are not prejudicially stopped, investigated, arrested, or detained based on their race, ethnicity, national origin, or religion. Policies primarily designed to impact certain groups are ineffective and often result in the destruction of civil liberties for everyone.

ERPA would establish a prohibition on racial profiling, enforceable by declaratory or injunctive relief. The legislation would mandate training for federal law enforcement officials on racial profiling issues.As a condition of receiving federal funding, state, local, and Indian tribal law enforcement agencies would be required to collect data on both routine and spontaneous investigatory activities. The Department of Justice would be authorized to provide grants to state and local law enforcement agencies for the development and implementation of best policing practices, such as early warning systems, technology integration, and other management protocols that discourage profiling. Lastly, this important legislation would require the Attorney General to issue periodic reports to Congress assessing the nature of any ongoing racial profiling.

Racial profiling involves the unwarranted screening of certain groups of people, assumed by the police and other law enforcement agents to be predisposed to criminal behavior. Multiple studies have proven that racial profiling results in the misallocation of law enforcement resources and therefore a failure to identify actual crimes that are planned and committed. By relying on stereotypes rather than proven investigative procedures, the lives of innocent people are needlessly harmed by law enforcement agencies and officials.

Racial profiling results in a loss of trust and confidence in local, state, and federal law enforcement. Although most individuals are taught from an early age that the role of law enforcement is to fairly defend and guard communities from people who want to cause harm to others, this fundamental message is often contradicted when these same defenders are seen as unnecessarily and unjustifiably harassing innocent citizens. Criminal investigations are flawed and hindered because people and communities impacted by these stereotypes are less likely to cooperate with law enforcement agencies they have grown to mistrust. We can begin to reestablish trust in law enforcement if we act now.

Current federal law enforcement guidance and state laws provide incomplete solutions to the pervasive nationwide problem of racial profiling.

Your support for the End Racial Profiling Act of 2011 is critical to its passage. We urge you to become an original co-sponsor of this vital legislation, which will ensure that federal, state, and local law enforcement agencies are prohibited from impermissibly considering race, ethnicity, national origin, or religion in carrying out law enforcement activities. To become an original co-sponsor, please contact Bill Van Horne in Senator Cardin's office at bill_vanhorne@cardin.senate.gov or (202) 224–4524. If you have any questions, please feel free to contact Lexer Quamie at (202) 466–3648 or Nancy Zirkin at (202) 263–2880. Thank you for your valued consideration of this critical legislation.

Sincerely,

Adhikaar; African American Ministers in Action; American-Arab Anti-Discrimination Committee; American Civil Liberties Union; American Humanist Association; Asian American Justice Center, member of Asian American Center for Advancing Justice; Asian Law Caucus; Asian Pacific American Labor Alliance; Bill of Rights Defense Committee; The Brennan Center for Justice; Counselors Helping (South) Asians Inc; Disciples Justice Action Network; Drug Policy Alliance.

DRUM—Desis Rising Up and Moving; Healing Communities Prison Ministry and Reentry Project Human Rights Watch; Indo-American Center; Institute Justice Team, Sisters of Mercy of the Americas; Japanese American Citizens League; Korean American Resource & Cultural Center; Korean Resource Center; Lawyers' Committee for Civil Rights Under Law; The Leadership Conference on Civil and Human Rights; Lutheran Immigration and Refugee Service; Muslim Advocates; Muslim Public Affairs Council; NAACP; NAACP Legal Defense and Educational Fund, Inc.

National Advocacy Center of the Sisters of the Good Shepherd; National African American Drug Policy Coalition, Inc.—National Alliance of Faith and Justice; National Asian American Pacific Islander Mental Health Association; National Asian Pacific American Bar Association; National Asian Pacific American Women's Forum; National Association of Criminal Defense Lawyers; National Association of Social Workers; National Black Police Association; National Congress of American Indians; National

Council of La Raza; National Gay and Lesbian Task Force Action Fund; National Korean American Service & Education Consortium; NETWORK, A National Catholic Social Justice Lobby.

OCA; Pax Christi USA; Rights Working Group; Sahara of South Florida, Inc.Sentencing Project; Sojourners; Sikh American Legal Defense and Education Fund; Sikh Coalition; Sneha, Inc.; South Asian Americans Leading Together; StoptheDrugWar.org; Union for Reform Judaism; United Methodist Church, General Board of Church and Society; UNITED SIKHS; US Human Rights Network.

Mr. CARDIN. The bill I introduced last week, the End Racial Profiling Act, would build on the Department of Justice's current ''Guidance Regarding the Use of Race by Federal Law Enforcement Agencies'' issued in 2003. This official Department of Justice guidance certainly was a step forward, but it does not have adequate provisions for data collection and enforcement for State and local agencies. The Department of Justice guidance also does not have the force of law.

The legislation I introduced would prohibit the use of racial profiling by Federal, State, or local law enforcement agencies. This bill clearly defines racial profiling to include race, ethnicity, national origin, or religion as protected classes. It requires training of law enforcement officers to ensure they understand the law and its prohibitions. It creates procedures for receiving, investigating, and resolving complaints about racial profiling. It would apply equally to Federal, State, and local law enforcement, which creates consistent standards at all levels of government.

The vast majority of our law enforcement officers who put their lives on the line every day handle their jobs with professionalism, diligence, and fidelity to the rule of law. However, Congress and the Justice Department can still take steps to prohibit racial profiling and root out its use. I look forward to working with my colleagues to enact this very important legislation.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

THE ECONOMY

Mr. HELLER. Mr. President, I rise today to address the economy as it affects my home State of Nevada.

This recession has hit my home State of Nevada harder than it has hit any other State in the country. My State has the unfortunate distinction of leading the Nation in unemployment, foreclosure, and bankruptcy.

As we discuss yet another stimulus this week, I hear from my friends on the other side of the aisle their claim that their priorities are jobs, jobs, jobs. I have one question about their economic policies: Is this working?

In January 2009 President Obama was inaugurated as President of the United States. Democrats controlled both Houses—both the House and the Senate—and Nevada's unemployment rate at that time was 9.4 percent. The next month the stimulus was passed. Supporters claimed the national unemployment level would not rise above 8 percent if we passed the stimulus bill. Nevada's unemployment at that time then grew from 9.4 percent to 10.1 percent.

In June of 2009 Congress passed the Cash for Clunkers legislation and Nevada's unemployment then grew at that point from 10.1 percent to 12 percent. With the success of Cash for Clunkers, we passed Cash for Clunkers II the following August, and Nevada's unemployment rose from 12 percent to 13.2 percent.

Then in March of 2010, Congress passed the President's health care law. Nevada's unemployment rose again, from 13.2 percent to 13.4 percent.

In July of that year, Congress then passed the Dodd-Frank reform of the financial services industry legislation that effectively limited access to capital, both for individuals and small businesses, and Nevada's unemployment rate went from 13.4 percent to 14.3 percent. In fact, if we go back to May of 2010, Nevada overtook Michigan as the State with the highest unemployment rate at 14 percent. With the passage of Dodd-Frank, it then rose again to 14.3 percent.

Then we passed the State bailout in August of 2010, and then stimulus No. 2, and Nevada's unemployment rate rose again to 14.4 percent. So with the unemployment rate at 14.4 percent and due to the lack of economic activity, some people in Nevada have stopped looking for work or, worse, some Nevadans have actually left the State for employment elsewhere. This has resulted in Nevada's unemployment dipping from 14.4 percent to 13.4 percent.

I guess I raise the question for the second time: Have these economic policies worked?

There is a local paper that had a readers' poll and the question of this readers; poll was: Is Nevada's economy recovering? Of those who responded, 82 percent said no. So regardless of what Washington, DC, is trying to tell them, 82 percent of Nevadans understand that the economic recovery has not yet occurred in the State of Nevada.

One of my constituents recently wrote:

> I am writing you today because I am outraged over the stimulus proposal that President Obama is trying to intimidate you into passing. Despite the evidence that the first two stimulus plans have failed, despite the promises that there were shovel ready jobs, despite the other false promises that the first trillion would upgrade our infrastructure and keep unemployment under 8 percent, despite the overwhelming evidence that nearly a TRILLION dollars of taxpayers' dollars were completely wasted in the first stimulus, this President had the audacity to demand that you immediately pass another half a trillion dollars' worth of stimulus. Don't do it!

So it is that the approach of this administration and its supporters have taken for economic recovery has failed miserably. Another stimulus bill is not the solution.

We now have a string of economic policies that are big on talking points, light on solutions. People from all over the country are struggling just to get by and are desperate for real solutions. It is time for new ideas and a new direction, not more of the same. Out-of-control spending, a health care law that no one can afford, and a seemingly endless stream of regulations are crippling employers, stifling economic growth, and killing jobs. The American public and businesses alike are awaiting a plan that can provide the stability and certainty necessary to provide confidence to the American people and bolster economic growth.

I hear some of my friends on the other side of the aisle claim there are no ideas for job creation coming from Republicans. Since coming to the Senate, I have repeatedly filed job-related amendments when given the opportunity but have yet to see an open debate on any of these amendments. So if it is true there are no ideas coming from Republicans, then there is nothing to fear from an honest, real debate on jobs. Instead of symbolic votes and political grandstanding, let's actually do the difficult work and address this problem.

As I suggested to President Obama, Nevada needs a proposal that reforms the Tax Code, stops excessive government spending, and provides the certainty businesses need to hire. Instead, the administration and the Senate majority have recycled the same failed policies, but this time they increase taxes on the same businesses we need to create jobs.

There are a number of actions Congress can take immediately to bolster our Nation's economy such as opening our country to energy exploration, streamlining the permitting process for responsible development of our domestic resources, and reforming our Tax Code, making it simpler for individuals and businesses alike, and cutting out the special-interest loopholes while reducing the overall tax burden for all Americans. Instead of looking for new ways to tax the American public and our job creators, we should make our Tax Code more competitive and provide businesses the stability they need to grow and create jobs.

As I have stated before, this continual threat of tax increases feeds the uncertainty that serves as an impediment to economic growth. These are all things that both this administration and Congress can do immediately to boost economic recovery.

I came to Washington to make a difference. Let's start doing the hard work we were sent here to do.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

JOB CREATION

Mr. MORAN. Mr. President, I am here on the floor today to share a few thoughts on a topic that has a daily impact upon the lives of Americans. It is the topic we have had front and center now for a long time—job creation. Whether a mom or dad can find a job directly impacts their ability to put food on their family's table, pay their mortgage, save for their children's education, and prepare for their own retirement.

In August our economy failed to create any jobs. In September our economy created about 100,000 jobs, but that is not fast enough to get us out of our economic slump. The fact is that 14 million Americans are still out of work, and about 42 percent of those unemployed have been looking for a job for more than 6 months. We know those facts.

Over the last few weeks, I have asked Kansans what their thoughts are about this circumstance, and we find many Kansans, as are others in America, discouraged, looking for work, unable to find a job. They want to know why our businesses are not creating those jobs and making them available for them.

I recently had the opportunity to sit down with Kansans who own businesses in Overland Park—a suburb of Kansas City—and in Hutchinson—a community just outside Wichita—to talk about the economy and their outlook for our economic future.

Throughout our conversations, it became clear the main reason businesses are not hiring is because of economic uncertainty. In fact, a survey conducted by the U.S. Chamber of Commerce indicated more than half of small business executives cited economic uncertainty as the greatest obstacle to hiring more employees.

From a business owner's perspective, I can understand why they are reluctant; if they do not know how much they will have to pay in taxes or to comply with additional regulations a year from now or how much health care costs will be for any new employee, why would they hire a new employee now or invest in their business? Any successful business owner will tell us they have to take risks to get ahead, but they will also tell us they have to balance those risks against their expected costs or they will run their business into the ground.

One chief executive put it this way:

> What are the rules of the game going to be in the long term? What our retailers would like to have is consistency and predictability. We can handle decisions we don't agree with, but that's easier than not knowing what the decision is going to be.

Another executive of a small business put it very plainly:

> Among the other presidents and CEOs I interact with, the only consensus of opinion is none of us has any idea where things are going. In my observation, the uncertainty we are experiencing is caused almost entirely out of Washington and other governments around the world.

The reality is the private sector has been the engine of job creation in our country throughout history. So we should do everything we can to encourage business to create jobs. In fact, small businesses represent 99.7 percent of all employer firms and employ half of all private sector employees, according to the Small Business Administration. In the last two decades, they have generated 65 percent of the new jobs created in our country.

One of the greatest opportunities we have to improve someone's life is to create an environment where jobs can be created, so employers can feel confident about investing in their companies, and they can put people to work.

Today, I wish to outline a new approach, one that is based on a proven track record of success—the success of the American entrepreneur. Soon I will be introducing legislation called the Startup Act to help jump-start our economy through the creation and growth of new businesses.

The American dream is based on the principle that anyone can achieve success, given the freedom and opportunity to make a better life for themselves and their families. America has long been known as the land of opportunity, where individuals risk all they have to live out their dreams. Many Fortune 500 companies, such as Ford, Apple, and General Electric, got their start with a handful of folks, an individual, a great idea, and a lot of hard work. Many of our businesses started in garages across our country. So we should continue to encourage this spirit of entrepreneurship in our Nation.

In Kansas City, there is a foundation dedicated to the promotion of entrepreneurship called the Kauffman Foundation. Their research shows that between 1980 and 2005, companies less than 5 years old accounted for nearly all the new job growth in the United States. In fact, new firms create about 3 million jobs each year. For 45 years, the Kauffman Foundation has worked to strengthen opportunities for entrepreneurs in this country, so when a person comes up with a good idea, they can pursue it and turn it into reality.

Many of their good ideas are reflected in the legislation I will soon be introducing and are based upon Kauffman's extensive research and analysis.

The foundation of the Startup Act is based on five progrowth principles: removing barriers to growth, attracting business investment, bringing more research from the laboratory to the marketplace, attracting and retaining entrepreneurial talent, and encouraging progrowth State and local policies.

First, the Startup Act will remove barriers to growth by streamlining Federal regulations. Rather than hiring new employees, businesses are spending money on complying with unreasonable regulations, sometimes regulations not based upon sound science. New businesses face an especially heavy burden in complying with the multitude of local, State, and Federal rules governing their business.

According to the SBA, firms with fewer than 20 employees spend 36 percent more per employee than larger firms to comply with Federal regulations. Very small firms spend 4½ times as much per employee to comply with environmental regulations and 3 times more per employee on tax compliance than the largest corporations.

When I met with those business leaders in Kansas City recently, one of them told me he was required to replace all the light bulbs in his factory because of an EPA regulation. But his factory has skylights and was already well lit. He did not need new lighting, but the government told him he did, and this unnecessary regulation cost him tens of thousands of dollars. This is just one example of how cumbersome and how costly regulations have become. That money could have and should have been, in my view, better spent on helping that business grow.

The Startup Act will overhaul the Federal regulatory process for all regulations that have an impact on the economy of $100 million or more. By requiring these rules to undergo a cost-benefit analysis every 10 years, the benefit and burden on businesses and consumers will become much more clear. This will ease the burden on businesses so they can focus on growing their business and hiring more workers.

Second, the Startup Act will help companies attract investment so they can get off the ground and grow more quickly. One of the greatest challenges for startups is having access to the necessary capital to grow their business.

Investors' capital gains are currently taxed at 15 percent. Last year, the Small Business Jobs Act passed by Congress temporarily exempted taxes on capital gains from the sale of certain small business stock held for at least 5 years. The Startup Act will make this exemption permanent so investors have an incentive to partner with entrepreneurs and help provide financial stability for the first few years of that business's beginning.

Third, the Startup Act will make it easier to take research from the laboratory and apply it in the marketplace. Some of our brightest and most creative individuals study at American universities. Each day, faculty members and graduate students make new discoveries and develop new ideas. The possibilities of research are endless. In

fact, university research led to groundbreaking discoveries such as the polio vaccine, antibiotics, black-and-white television, barcodes, and, more recently, e-mail and Google.

To help bring more cutting-edge research to the marketplace, my bill creates an incentive for universities to reform their technology policies and practices. The Startup Act requires the top Federal R&D grant-making agencies to give preference to universities that have a proven track record of success in discovering commercial applications for their research.

Fourth, this legislation will enable new businesses to attract and retain highly trained workers, including those who immigrate to our country.

Our country was founded on immigrants who have long contributed to the strength of our economy by starting businesses and creating jobs. In fact, a 2007 study found that more than one-quarter of technology and engineering companies started in our country, from 1995 to 2002, had at least one key founder who was born overseas. These companies produced $52 billion in sales and employed 450,000 workers in 2005 alone.

Research shows that 53 percent of immigrant founders of U.S.-based technology and engineering companies completed their highest degree at an American, a U.S. university. Unfortunately, many foreign-born immigrants leave the States after they complete their studies and return to their home countries to start businesses because they have a hard time securing a visa to stay in the United States.

It does not make much sense to make such an investment in these students and then not give them the opportunity to apply what they have learned by starting a company in the United States that will generate jobs for other Americans. We should be doing all we can to attract and retain highly skilled and entrepreneurial folks so they can work in the field where they have studied and contribute to our economy.

The Startup Act will help retain this talent in two ways.

First, it creates a new visa, called a STEM visa, for any immigrant who graduates with a master's or Ph.D. in science, technology, engineering or math. This will give those graduates the opportunity to stay for up to 1 year beyond their graduation date to find a job and put to work the high-tech skills they learned and that our economy so desperately needs.

Second, the bill creates another visa, called an entrepreneur's visa, for immigrants who register a business and employ at least one nonfamily member within 1 year of obtaining that visa. Once they have satisfied those requirements, the entrepreneur would be allowed to remain here for an additional 3 years if they employ additional employees and further grow their business.

The goal of both these visas is to encourage innovation among highly skilled entrepreneurs and to help grow our country.

Finally, the Startup Act would encourage progrowth State and local policies.

While Federal policies certainly impact the formation and growth of new businesses, State and local policies also play an important role in their creation and growth. In order to identify the States which are the most entrepreneur-friendly, this legislation will create the ''State Startup Business Report'' to analyze State laws and policies. The report will encourage healthy competition and lead to the development and expansion of progrowth policies.

In conclusion, our first priority in Congress should be to create an environment that encourages companies to grow and create jobs. We know our economy cannot continue on the path it is on. In a recent Chamber of Commerce study, 64 percent of small business executives said they do not expect to add to their payroll in the next year, and another 12 percent said they plan to cut jobs.

The Startup Act would encourage American entrepreneurs to do what they do best: dream big and pursue their dreams. The American economy can and will recover when we give American entrepreneurs the tools they need to succeed.

By removing those barriers to growth for new companies, attracting business investment, bringing more research from the laboratory to the marketplace, retaining talented entrepreneurs and skilled employees, and encouraging progrowth policies, we will spur growth in the marketplace and assist in putting people back to work.

The ongoing debate about how to create jobs needs to turn from rhetoric to reality. Nothing in this legislation is designed to be highly partisan. It is designed to make certain Republicans and Democrats can come together with a plan that will make a difference.

It is time for Congress to put policies in place that give job creators more confidence and certainty in the marketplace. If we fail to act as we should, if we continue to ignore the economic problems facing our country, if we let partisanship and bickering get in our way, we will reduce the opportunities the next generation of Americans have to pursue the American dream. It is our greatest responsibility as citizens of our country to make sure the next generation of Americans can live in a country with freedom and liberty and have the opportunity to dream their dreams and see them fulfilled.

I yield back and suggest the absence of a quorum.

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

The bill clerk proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, morning business is now closed.

AUTHORIZING APPOINTMENT OF ESCORT COMMITTEE

Mr. LEAHY. Mr. President, I ask unanimous consent that the President of the Senate be authorized to appoint a committee on the part of the Senate to join a like committee on the part of the House of Representatives to escort His Excellency Lee Myung-bak, President of the Republic of Korea, into the House Chamber for the joint meeting at 4 p.m., Thursday, October 13, 2011.

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

EXECUTIVE SESSION

NOMINATION OF ALISON NATHAN TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK

NOMINATION OF SUSAN OWENS HICKEY TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF ARKANSAS

NOMINATION OF KATHERINE B. FORREST TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK

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

The bill clerk read the nominations of Alison Nathan, of New York, to be United States District Judge for the Southern District of New York; Susan Owens Hickey, of Arkansas, to be United States District Judge for the Western District of Arkansas; and Katherine B. Forrest, of New York, to be United States District Judge for the Southern District of New York.

The PRESIDING OFFICER. Under the previous order, there will be 2 hours for debate with respect to those nominations, with the time equally divided in the usual form.

Mr. LEAHY. Mr. President, I ask unanimous consent that—it is now 10 minutes past 12—the 2 hours be deemed as having begun at 12 so the first vote will be at 2 o'clock.

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

Mr. LEAHY. With the time equally divided as under the normal agreement.

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

Mr. LEAHY. And that the time in quorum calls be equally divided.

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

Mr. LEAHY. With votes today on 3 of the 30 judicial nominations reported favorably by the Judiciary Committee, the Senate will complete action on the nominations that were part of the unanimous consent agreement reached 3 weeks ago, prior to the last recess.

I want to thank the majority leader for pressing at that time for Senate votes on all 27 of the judicial nominations then on the Executive Calendar. Unfortunately, the Republican leadership would consent to vote on only 10 of those long-stalled nominations. So even after today's vote, we are back where we started with 27 judicial nominations on the calendar awaiting final action by the Senate.

Like the nominations we considered last week and earlier this week, all three of the district court nominations the Senate considers today were reported favorably by the committee months ago with strong bipartisan support. They have all been fully considered by the Senate Judiciary Committee. They have all been through a thorough vetting process. They were all ready for a final Senate vote well before the August recess, but we are only considering them now, halfway through October.

As I said when the Senate returned from the September recess with votes on six long-pending nominations, I hope that these votes are an end to the unnecessary stalling by Senate Republicans on nominations. I hope that the Senate will build on these votes and make real progress in addressing the crisis in judicial vacancies that has gone on for far too long, to the detriment of our courts and the American people. Votes on four to six judicial nominees a week cannot be the exception if we are going to bring down a judicial vacancy rate that remains above 10 percent, with 92 vacancies on Federal courts across the country. Votes on four to six nominations would be required throughout the year to make a real difference. I hope my friends on the other side of the aisle will join together with us to end their insistence on harmful delay for delay's sake.

We need a return to regular order where the timely consideration of consensus, qualified nominees is not the exception but the rule. With Republican agreement, we could vote today on all 30 of the nominations reported by the Committee. Of the 27 judicial nominations that will remain on the Executive Calendar tomorrow, 24 of them were reported with unanimous support of every single Democrat and every single Republican serving on the Judiciary Committee. All of them have the support of their home State Senators, including 13 who have the support of Republican home State Senators.

I have served in the Senate for years, with both Republican leadership and Democratic leadership, Republican Presidents and Democratic Presidents. Especially for district courts, when nominees were voted out of the committee with a bipartisan majority or voted out unanimously, they were voice-voted within a matter of weeks. That has changed: under President Obama, Republicans are delaying judges who were voted on unanimously by every Republican and Democrat in the Judiciary Committee. I do not think that is right.

The path followed by the Senate in considering the nomination of Judge Jennifer Guerin Zipps is the path that should be followed with all consensus nominations. Judge Zipps was nominated to fill the emergency judicial vacancy created by the tragic death of Judge Roll in the Tucson, Arizona shootings. I was pleased that, with cooperation from Republican Senators, the time from when the Judiciary Committee reported Judge Zipps' nomination to full Senate consideration was less than 1 month, even including a recess period. It should not take a tragedy to spur us to action to fill a judicial emergency vacancy. Indeed, the time it took the Senate to consider Judge Zipps' nomination was in line with the average time it took for the Senate to consider President Bush's unanimously reported judicial nominations—28 days. It is regrettable that her nomination has become the exception for President Obama's consensus nominations. Those nominations which have been reported with the unanimous support of every Republican and Democrat on the Judiciary Committee have waited an average of 76 days on the Executive Calendar before consideration by the Senate.

Senator GRASSLEY and I have worked together to ensure that the Judiciary Committee makes progress on nominations. Earlier today, the committee reported another five judicial nominations, four of which have Republican home state Senators in strong support. Two of those nominations will fill judicial emergency vacancies in Florida and Utah. There is no need for the Senate to wait weeks and months before voting on these nominations. There is no need for the Senate Republican leadership to continue the unnecessary delays in our consideration of judicial nominations that have contributed to the longest period of historically high vacancy rates in the last 35 years. The number of judicial vacancies rose above 90 in August 2009, and it has stayed near or above that level ever since. We must bring an end to these needless delays in the Senate so that we can ease the burden on our Federal courts so that they can better serve the American people.

More than half of all Americans—almost 170 million—live in districts or circuits that have a judicial vacancy that could be filled today if Senate Republicans just agreed to vote on those nominations that were reported favorably by Republicans and Democrats on the Judiciary Committee. As many as 25 States are served by Federal courts with vacancies that would be filled by these nominations. Millions of Americans across the country are harmed by delays in overburdened courts. When most people go to court they do not consider themselves Republicans or Democrats; they just know they have a reason to go to court. But they now find many vacant judgeships. They cannot get their cases heard, and justice delayed is, as we know, justice denied.

As I have said, we have 27 judicial nominations remaining on the calendar—24 of them voted for unanimously. I ask the Republican leadership to explain to the American people why they will not consent to vote on the qualified consensus candidates nominated to fill these extended judicial vacancies.

The delays which have led to the damaging backlog in judicial nominations is compounded by the unprecedented attempt by some on the other side of the aisle to create what I consider misplaced controversies about the records of what should be consensus district court nominees. This approach has threatened to undermine the longstanding deference given to home State Senators who know the nominees and the needs of their states best. I am glad we are finally going to vote today on the nominations of Alison Nathan to the Southern District of New York and Susan Hickey to the Western District of Arkansas, but I hope Senators will not raise the kind of selective and unfair questions about the qualifications of these two fine nominees which were never raised about President Bush's judicial nominees.

Alison Nathan is currently Special Counsel to the Solicitor General of New York, having earned the Louis J. Lefkowitz Memorial Achievement Award for her work there last year. Ms. Nathan previously had a successful career in private practice at a national law firm, as a professor at two New York law schools, and as an Associate White House Counsel. She clerked for Supreme Court Justice John Paul Stevens and Judge Betty Fletcher of the Ninth Circuit Court of Appeals.

Ms. Nathan's nomination has the strong support of both her home State Senators. Senator SCHUMER rightfully praised her intellect and her accomplishments when he introduced her to the Judiciary Committee. Half of the Republicans on the Judiciary Committee joined all of the Democrats in voting to report her nomination favorably. However, some in committee raised concerns about Ms. Nathan's qualifications, citing her rating by a minority of the ABA's Standing Committee on the Federal Judiciary as ''not qualified.'' I note that a majority of the ABA Standing Committee rated her ''qualified'' to serve. I also note that Ms. Nathan's ABA rating is equal to or better than the rating received by 33 percent of President Bush's confirmed judicial nominees, who were

supported by nearly every Republican Senator. Her rating is better than the four of President Bush's nominees who were confirmed despite a ''not qualified'' rating by the majority of the ABA's Standing Committee, including two nominees to the Eastern District of Kentucky, David L. Bunning and Gregory F. Van Tatenhove, who were supported by the Republican leader. The Senate deferred to the recommendations of the home State Senators in considering President Bush's nominations and confirmed nominees from Alabama, Utah, Arizona and Oklahoma, among other States, who had received a partial rating of ''not qualified.''

There is no question that the Senate should confirm Ms. Nathan. As her resume shows, she is an accomplished nominee with significant experience in private practice, academia and government service. Twenty-seven former Supreme Court clerks have written to the Judiciary Committee in support of her qualifications, including clerks who worked for the conservative Justices. They write:

> Although we hold a wide range of political and jurisprudential views, all of us believe Ns. Nathan has the ability, character, and temperament to be an excellent Federal district court judge. We recommend her for this position without hesitation and without reservation.

I support Ms. Nathan's nomination without reservation, and hope that Senators from both sides of the aisle will join me in supporting this worthy nominee.

The Senate will also vote today to confirm the nomination of Judge Susan Hickey to the Western District of Arkansas. Judge Hickey has the bipartisan support of her home State Senators, Democratic Senator MARK PRYOR and Republican Senator JOHN BOOZMAN, both of whom have praised her background and qualifications in introducing her to the Committee. A majority of Republicans joined every Democratic Senator on the Judiciary Committee in voting to report her nomination. Yet because she spent a significant part of her career as a law clerk and took a hiatus from law practice while on family leave, some have questioned whether she is qualified to serve on the Federal bench. In my view, and the view of her home State Senators—one Democratic and one Republican—those concerns are misplaced.

Currently a State court judge serving in the Thirteenth Judicial Circuit in Arkansas, Judge Hickey was previously a career law clerk for the Honorable Judge Barnes, whom she is nominated to replace. During her confirmation hearing, Judge Hickey testified about the experience she gained as a career law clerk to Judge Barnes, saying that she ''[took] part in all matters that were before the court from the time that the case was filed till the final disposition.'' She testified about the cases she has managed as a State Court Judge, and her experience litigating bench trials and jury trials. The ABA Standing Committee on the Federal Judiciary unanimously rated Judge Hickey ''qualified'' to serve on the Federal bench. I hope that she will be confirmed with bipartisan support.

The Senate today will also finally consider the nomination of Katherine Forrest to fill another vacancy on the Southern District of New York. Currently a Deputy Assistant Attorney General in the Antitrust Division of the Department of Justice, she previously spent over 20 years as a litigator in private practice at the law firm Cravath, Swaine & Moore in New York City, where she was named one of America's Top 50 litigators under the age of 45. The ABA Standing Committee on the Federal Judiciary unanimously rated Ms. Forrest ''well qualified'' to serve, its highest possible rating. The Judiciary Committee favorably reported Ms. Forrest's nomination without dissent three months ago.

In the weeks ahead, I hope that we continue to consider more of the 27 judicial nominees, nearly all of whom are the kind of consensus nominees we could consider within days. We have an enormous amount of ground to recover. At this point in George W. Bush's presidency, the Senate had confirmed 162 of his nominees for the Federal circuit and district courts, including 100 during the 17 months that I was chairman of the Judiciary Committee during his first term. By this date in President Clinton's first term, the Senate had confirmed 163 of his nominations to circuit and district courts. In stark contrast, after today's vote, the Senate will have confirmed only 108 of President Obama's nominees to Federal circuit and district courts. As a result, vacancies are twice as high as they were at this point in President Bush's first term when the Senate was expeditiously voting on consensus judicial nominations. In the next year, we need to confirm nearly 100 more of President Obama's circuit and district court nominations to bring the vacancies down to match the 205 confirmed during President Bush's first term.

We can and must do better to address the serious judicial vacancies crisis on Federal courts around the country that has persisted for over 2 years. We can and must do better for the nearly 170 million Americans being made to suffer by these unnecessary delays.

Again, I apologize for my voice, I thank the ranking member for his help, and I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, today we continue in our cooperation with the majority as we vote on three more judicial nominees. With a confirmation earlier this week, and six judicial confirmations last week, I want to note the progress we have made.

After today's votes, we will have confirmed 68 percent of President Obama's judicial nominees submitted during his presidency. We remain ahead of the pace set forth in the 108th Congress. We have already held hearings for over 84 percent of President Obama's judicial nominees this Congress, while at this point in the 108th Congress, only 77 percent of President Bush's judicial nominees had their hearing.

This morning, the Judiciary Committee reported five more nominees to the Senate floor, totaling over 77 percent of President Obama's judicial nominees receiving favorable votes out of committee. That is compared to only 72 percent of President Bush's judicial nominees receiving favorable outcomes at this point in the 108th Congress. This indicates the bipartisan effort taking place to move consensus nominees forward, despite what we hear from the other side about obstruction and delay.

The advice and consent function of the Senate is a critical step in the process. In the Federalist Papers No. 76, Alexander Hamilton wrote:

> To what purpose then require the co-operation of the Senate? I answer, that the necessity of their concurrence would have a powerful, though, in general, a silent operation. It would be an excellent check upon a spirit of favoritism in the President, and would tend greatly to prevent the appointment of unfit characters from State prejudice, from family connection, from personal attachment, or from a view to popularity.

In other words, the Senate has a role in preventing the appointment of judges who are simply political favorites of the President, or of those who are not qualified to serve as Federal judges.

Also, let me remind my colleagues of what then-Senator Obama stated about this duty 6 years ago in connection with the attempted filibuster of Janice Rogers Brown. Our President, then Senator, said:

> Now, the test for a qualified judicial nominee is not simply whether they are intelligent. Some of us who attended law school or were in business know that there are a lot of real smart people out there whom you would not put in charge of stuff. The test of whether a judge is qualified to be a judge is not their intelligence. It is their judgment.

A few months later, on January 26, 2006, when debating the Alito nomination, then-Senator Obama said:

> There are some who believe that the President, having won the election, should have the complete authority to appoint his nominee, and the Senate should only examine whether or not the Justice is intellectually capable and an all-around nice guy. That once you get beyond intellect and personal character, there should be no further question whether the judge should be confirmed. I disagree with this view. I believe firmly that the Constitution calls for the Senate to advise and consent. I believe that it calls for meaningful advice and consent that includes an examination of a judge's philosophy, ideology, and record.

You can see some differences between what Senator Obama said on a couple of different occasions on the Senate floor and also how there is some disagreement with what Alexander Hamilton said in the Federalist Papers No. 76.

Our inquiry of the qualifications of nominees must be more than intelligence, a pleasant personality, or a prestigious clerkship. At the beginning of this Congress, I articulated my standards for judicial nominees. I want to ensure that the men and women who are appointed to a lifetime position in the Federal judiciary are qualified to serve. Factors I consider important include intellectual ability, respect for the Constitution, fidelity to the law, personal integrity, appropriate judicial temperament, and professional competence.

In applying these standards, I have demonstrated good faith in ensuring fair consideration of judicial nominees. I have worked with the majority to confirm consensus nominees. However, as I have stated more than once, the Senate must not place quantity confirmed over quality confirmed. These lifetime appointments are too important to the Federal judiciary and the American people to simply rubber stamp them.

Although we have had a long run of confirming consensus nominees, two of the nominees on which we are about to vote come with some reservations. Ms. Nathan and Judge Hickey both have had limited experience in the courtroom. They have failed to meet even the minimum qualifications that the ABA says it uses in the rating process. The guidelines of the Standing Committee of the ABA provide:

> . . . a prospective nominee to the Federal bench ordinarily should have at least 12 years experience in the practice of law.

They further state:

> Substantial courtroom and trial experience as a lawyer or trial judge are important.

I want to emphasize the American Bar Association 12-year standard is not an absolute. However, it is a benchmark that we can use to evaluate the experiences of various nominees. As I have said in the past, being appointed a Federal district judge should be a capstone of an illustrious career. Federal judges should have significant courtroom and trial experience as a litigator or a judge. I would note that last week at our hearing, Justice Scalia expressed concern about the decline in the quality of Federal judges.

With regard to the two non-consensus nominations before us today, I voted to advance them out of the Judiciary Committee so the full Senate could evaluate their qualifications. However, both of these nominees received votes in opposition in our committee. After they were reported, we had our second opportunity to examine their records, and unfortunately I am unable to support them on the floor.

I am, however, pleased to support the nomination of Katherine B. Forrest to be United States District Judge for the Southern District of New York.

In Ms. Nathan's case, she graduated from law school only 11 years ago, and has been admitted to the practice of law for only 8 years. Her questionnaire states she served as associate counsel on approximately six trial court litigation matters. Most of the significant litigation she lists is from her current position in the New York Solicitor General's Office.

In addition, I am concerned about her views on second amendment rights, on the death penalty, on the use of foreign law, and her remarks regarding the Bush administration's war on terror.

Judge Hickey has served as a State court judge for about 1 year. Her questionnaire indicates she has presided over two criminal bench trials—a speeding-DWI case and a second speeding case. Prior to that, she spent about 7 years as a senior law clerk in the Western District of Arkansas. Early in her career, from 1981 to 1984, she was a staff attorney with Murphy Oil Company. Altogether, I am not sure we can get to 12 years of legal-judicial experience—the minimum the American Bar Association committee says a nominee to the courts should have. Furthermore, Judge Hickey has no litigation experience. She has tried no cases.

I want to be very clear here—I am not denigrating the career choices of these nominees, nor am I arguing that the experience they have is unrelated to service as a Federal judge. What I am saying is they do not have enough experience, and this is not the place for on-the-job training.

Let me say a bit more about the background of the nominees we are considering today.

Two nominees have been nominated to serve as United States District Judge for the Southern District of New York—Katherine B. Forrest and Alison J. Nathan.

Since graduating from New York University School of Law in 1990, Ms. Forrest has spent the vast majority of her legal career as an attorney at Cravath, Swayne, & Moore. She served as an associate at the firm from 1990 to 1997 and a partner from 1998 to 2010. While at Cravath, Swayne, & Moore, Ms. Forrest was a generalist litigator who practiced in the areas of antitrust, intellectual property, contracts, employment law, accounting fraud, and securities litigation.

In addition, Ms. Forrest was involved in the management of the firm, serving on the Partner Review Committee. She also ran the firm's Continuing Legal Education Program from 1998 to 2005.

Ms. Forrest has been a deputy assistant attorney general in the Department of Justice's antitrust division since 2010. She is involved in most major matters the division handles, including litigation planning and execution, appellate litigation, and international cooperation. She has a unanimous rating of ''Well Qualified'' by the ABA Standing Committee on the Federal Judiciary.

Ms. Nathan graduated with a B.A. from Cornell University in 1994 and with a J.D. from Cornell Law School in 2000. Upon graduation, she clerked for Judge Betty Fletcher of the Ninth Circuit Court of Appeals from 2000 to 2001. From 2001 to 2002, Ms. Nathan clerked for Justice John Paul Stevens of the Supreme Court of the United States.

Ms. Nathan entered private practice with Wilmer, Cutler, Pickering Hale & Don LLP, serving as an Associate in the Washington, DC, office as well as the New York office. She practiced within the Litigation Group, the Supreme Court and Appellate Litigation Group, and the Regulatory and Government Affairs Group.

From 2006 to 2008, Ms. Nathan worked as a visiting assistant professor of law at Fordham University School of Law. In this role she taught civil and criminal procedure and constitutional law. From 2008 to 2009, Ms. Nathan also served as the Fritz Alexander fellow at New York University School of Law, engaged in legal research.

In 2009, Ms. Nathan secured a position with the White House Counsel's Office. As an associate White House counsel and Special Assistant to the President, Ms. Nathan reviewed legislation, analyzed and advised staff on legal issues, and assisted in the preparation of judicial and executive branch nominees for confirmation hearings.

In July 2010, Ms. Nathan returned to New York and began to work as a Special Assistant to the Solicitor General of New York. A majority of the ABA Standing Committee on the Federal Judiciary rated Ms. Nathan as ''Qualified.'' A minority rated her as ''Not Qualified.''

And finally, Susan Owens Hickey, who is nominated to be a United States District Judge for the Western District of Arkansas. Ms. Hickey graduated from the University of Arkansas School of Law in 1981. In April of that year, she worked for the law firm of Brown, Compton & Prewett, where she worked on the pretrial preparation and trial of a personal injury case that the firm was defending. From 1981 to 1984, Ms. Hickey worked as a staff attorney for the Murphy Oil Corporation. In that role, she worked primarily on issues involving natural gas, securities and corporate law.

From 1984 to 2003, Ms. Hickey was not employed or actively engaged in the practice of law, with the exception of serving as a temporary law clerk. During the summer of 1997 and during the summer of 1998 Ms. Hickey served as a temporary law clerk for the Honorable Harry F. Barnes, United States District Judge for the Western District of Arkansas.

Ms. Hickey returned to work for that same judge in 2003, serving as a senior career law clerk, and she stayed in that position until 2010.

In September 2010, Ms. Hickey was appointed circuit judge for the Thirteenth Judicial Circuit of Arkansas. Ms. Hickey received a unanimous ''Qualified'' rating from the ABA Standing Committee on the Federal Judiciary.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Illinois.

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

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

TERRORIST PROSECUTION

Mr. DURBIN. Mr. President, my Republican colleagues have frequently come to the Senate floor to criticize President Obama for his handling of terrorism cases. They have argued regularly and consistently that terrorism suspects should never be interrogated by the FBI and should not be prosecuted in America's criminal courts but, instead, they argue, they should only be held in military detention and prosecuted in military commissions.

Today, I have noticed no one on the Republican side has come to the Senate floor to make those arguments. Why not? It may be because yesterday Umar Farouk Abdulmutallab pled guilty in Federal court to trying to explode a bomb in his underwear on a flight to Detroit on Christmas Day 2009. Mr. Abdulmutallab, who will be sentenced in January, is expected to serve a life sentence.

I commend the men and women at the Justice Department and the FBI for their work on this case. America is a safer country today thanks to them.

My colleagues on the other side were very critical of the FBI's decision to give Miranda warnings to Abdulmutallab. Let me quote Senator MCCONNELL, the minority leader. This is what he said on the floor of the Senate:

> He was given a 50-minute interrogation.

He was referring to Abdulmutallab.

The Senator went on to say:

> Probably Larry King has interrogated people longer and better than that. After which he was assigned a lawyer who told him to shut up.

That is an interesting statement, but here are the facts. Experienced counterterrorism agents from the FBI interrogated Abdulmutallab when he arrived in Detroit. According to the Justice Department, during this initial interrogation, the FBI ''obtained intelligence that proved useful in the fight against al Quida.'' After this initial interrogation, Abdulmutallab refused to cooperate further with the FBI. Only then, after Abdulmutallab stopped talking, did the FBI give him a Miranda warning.

What the FBI did in this case was nothing new. During the Bush administration, the FBI consistently gave Miranda warnings to terrorists detained in the United States.

Here is what Attorney General Holder said:

> Across many administrations, both before and after 9/11, the consistent, well-known, lawful, and publicly-stated policy of the FBI has been to provide Miranda warnings prior to any custodial interrogation conducted inside the United States.

In fact, under the Bush administration, they adopted new policies for the FBI that say that ''within the United States, Miranda warnings are required to be given prior to custodial interviews.''

Let's take one example from the Bush administration: Richard Reid, also known as the Shoe Bomber. Reid tried to detonate an explosive in his shoe on a flight from Paris to Miami in December 2001. This was very similar to the attempted attack by Abdulmutallab, another foreign terrorist who also tried to detonate a bomb on a plane. So how does the Bush administration's handling of the Shoe Bomber compare with the Obama administration's handling of the Underwear Bomber? The Bush administration detained and charged Richard Reid as a criminal. They gave Reid a Miranda warning within 5 minutes of being removed from the airplane, and they reminded him of his Miranda rights four times within the first 48 hours he was detained.

Later, Abdulmutallab began talking again to FBI interrogators and providing valuable intelligence. FBI Director Robert Mueller, for whom I have the highest respect, described it this way:

> Over a period of time, we have been successful in obtaining intelligence, not just on day one, but on day two, day three, day four, and day five, down the road.

Now, how did that happen? How did the FBI get even more information from the suspect after they gave the Miranda warning? The Obama administration convinced Abdulmutallab's family to come to the United States, and his family persuaded him to start talking to the FBI. That is a very different approach than we have heard in previous administrations. Sometimes when a detainee refused to talk, in the Bush administration, in some isolated cases, there were extreme techniques used to try to get information from him, such as waterboarding. But real life isn't the TV show ''24.'' On TV, when Jack Bauer tortures somebody, the suspect immediately admits everything he knows. Here is what we learned during the previous administration: In real life, when people are tortured, they lie. They will lie and say anything to make the pain stop. Oftentimes they provide false information, not valuable intelligence.

Richard Clarke was the senior counterterrorism adviser to President Clinton and President George W. Bush. Here is what he said about the Obama administration's approach:

> The FBI is good at getting people to talk. They have been much more successful than the previous attempts of torturing people and trying to convince them to give information that way.

Many of my colleagues on the other side of the aisle argue that Abdulmutallab should have been held in military detention as an enemy combatant, but terrorists arrested in the United States have always been held under our criminal laws.

Here is what Attorney General Holder said:

> Since the September 11, 2011 attacks, the practice of the U.S. government, followed by prior and current administrations without a single exception, has been to arrest and detain under Federal criminal law all terrorist suspects who are apprehended inside the United States.

Many of my Republican colleagues also argue that terrorists such as Umar Abdulmutallab should be tried in military commissions because Federal courts are not well-suited to prosecuting terrorists.

That argument is simply wrong. Look at the facts. Since 9/11, more than 200 terrorists have been successfully prosecuted and convicted in our Federal courts. Here are just a few of the terrorists who have been convicted in Federal courts and are serving long prison sentences: Ramzi Yousef, the mastermind of the 1993 World Trade Center bombing; Omar Abdel Rahman, the so-called Blind Sheik; the 20th 9/11 hijacker, Zacarias Moussaoui; Richard Reid, the Shoe Bomber; Ted Kaczynski, the Unabomber; Terry Nichols, the Oklahoma City coconspirator; and now Abdul Abdulmutallab. Compare this with the track record of military commissions. Since 9/11, only 4 individuals have been convicted by military commissions—more than 200 in the courts, 4 in military commissions—and 2 of those individuals spent less than 1 year in prison, having been found guilty by a military commission, and are now living freely in their home countries of Australia and Yemen.

GEN Colin Powell, the former head of the Joint Chiefs of Staff and Secretary of State under President Bush, supports prosecuting terrorists in Federal courts. Here is what he said about military commissions. This is from General Powell:

> The suggestion that somehow a military commission is the way to go isn't borne out by the history of the military commissions.

Many military commissions, when it comes to terrorism cases, are an unproven venue, unlike Federal courts.

Former Bush administration Justice Department officials James Comey and Jack Goldsmith also support prosecuting terrorists in Federal court. Here is what they said:

> There is great uncertainty about the commissions' validity. This uncertainty has led to many legal challenges that will continue indefinitely. . . . By contrast, there is no question about the legitimacy of U.S. Federal courts to incapacitate terrorists.

I say to my colleagues, after a steady parade of speeches on this Senate floor by the Senate Republican leader and others about how we cannot trust our Federal court system to prosecute terrorists, how we should take care to never let the FBI do this important job, the facts speak otherwise.

In Detroit, in the Federal court, we should give credit where it is due. The

FBI did its job. Our courts did their job. The Department of Justice prosecutors did their job. Abdulmutallab pled guilty. He pled guilty because the evidence was overwhelmingly against him. He was convicted openly in the courts of America, which is an important message to send to the rest of the world, and he will pay a heavy price—a life sentence—for his terrible attempt to down an aircraft in the United States. That prosecution and that confession were obtained in our court system.

To argue that military commissions are the only way to go and that using the FBI and Department of Justice and our article III courts as a venue for terrorism is wrong is not proven by the facts, the evidence, or the most recent information coming forward. I would hope some of my colleagues who are now holding up the Defense authorization bill on this issue will at least be hesitant to argue their case now that the Abdulmutallab prosecution has been successfully completed. Over 200 terrorists have been successfully prosecuted in America's courts.

My message to them and I think the message of America to every President is, you use the court, you use the agency you think will be most effective in protecting America. Congress should not tie the hands of any President when it comes to this important prosecution. This success that we have seen in Detroit is evidence that if we give to a President—whether it is a Republican or Democratic President—the tools to prosecute those accused of terrorism, the President can use them wisely, sometimes in military commissions but more often in our court system, an open system that says to the world we can bring the suspected terrorist to justice and do it in a fashion consistent with American values.

I hope all of my colleagues, Democrats and Republicans, will join me in commending the Justice Department and FBI for their success in bringing Abdulmutallab to justice, and I sincerely hope this case will cause some Members of the body to reconsider their opposition to handling terrorism in the criminal justice system.

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

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

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

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

THE ECONOMY

Mr. DURBIN. Mr. President, the events of this week are an indication that much needs to be done in Washington to deal with the state of our economy. With 14 million Americans out of work, it is high time that both political parties find a way to develop a plan to move this country forward and to create jobs.

When the President spoke to Congress a little over 4 years ago, he laid out at least the foundation of a plan and later provided the details. But time and again, President Obama has said to the Republican leadership: I am open to your ideas. Bring them forward. Let's put them in a combined effort to make America a stronger nation and to find our way out of this recession.

Unfortunately, we have not heard suggestions from the other side. We had an important vote Tuesday night. Sadly, the Republican filibuster prevailed. Republicans, because they did not want to move the President's bill to consideration on the floor of the Senate, voted—every single one of them—against President Obama's efforts to put America back to work. I do not think that is going to be a position which is easily defended back home. Whether one agrees or disagrees with President Obama, the American people expect Democrats and Republicans to enter a dialog to help this country. We have to give on the Democratic side, and they should be prepared to give on the Republican side, and let's try to find some common ground. There are too many instances where we fight to a face-off and then leave.

The suggestion that yesterday's efforts to pass three free-trade agreements with South Korea, Panama, and Colombia are going to turn the economy around, I am not sure of being close to accurate. I supported two of those trade agreements, and I think they will help create jobs and business opportunities in America in the longer run but in the near term not likely so.

What we need to do is to work on what has been proven to be successful to move this economy forward. Let's start with the basics. Working families struggle from paycheck to paycheck. Many families do not have enough money to get by. They are using food pantries and other help to survive in this very tough economy. So President Obama said the first thing we need to do is to give a payroll tax cut to working families so they have more money to meet their needs. What it boils down to in Illinois, where the average income is about $53,000 a year, is the equivalent of about $1,600 a year in tax cuts for working families. That is about $130 a month, which many Senators may not notice but people who are struggling to fill the gas tank and put the kids in school can use $130 a month.

The President thinks that is an important part of getting America back on its feet and back to work, and I support it. That was one of the elements that was stopped by the Republican filibuster on Tuesday night.

The second proposal of the President is that we give tax breaks to businesses, particularly small businesses, to create an incentive for them to hire the unemployed, starting with our returning veterans. It is an embarrassment to think these men and women went overseas and risked their lives fighting an enemy and now have to come home and fight for a job. We ought to be standing by them, helping them to get to work, and that is one of the elements in the President's bill that was also defeated by the Republican filibuster on Tuesday night.

The President went on to say we ought to be investing our money in America. If we put people to work, let's build something that has long-term value. One of those he suggested was school modernization. I visited some schools around my State, and I am sure in the State of Colorado and other places there are plenty of school districts struggling because the tax base has been eroded by declining real estate values and these districts need a helping hand. When I went to Martin Grove and visited a middle school there, I found great teachers doing the best they could in classrooms where the tiles were falling from the ceiling and where the boiler room should be labeled an antique shop because it was a 50- or 60-year-old operation that was kept together with $150,000 of repairs each year. We ought to buy new equipment and install it in American schools so they can serve us for many years to come.

The same holds true in investing in our infrastructure, whether it is highways, bridges or airports. Make no mistake, our competitors around the world are building their infrastructure to beat the United States, and those who want us to retreat in this battle are going to be saddened by the consequences if they have their way. President Obama said invest this money in putting Americans to work to build our infrastructure, rebuild our schools, build our neighborhoods in a way that serves us for years to come.

The President is also sensitive to the fact that in many parts of America, including Illinois, there are school districts and towns that have had to lay off teachers and firefighters and policemen. It doesn't make us any safer, and it doesn't make our schools any more effective. Part of the President's jobs package is to make sure, for those teachers as well as policemen and firefighters, at least some of their jobs will be saved. In Illinois, over 14,000 of those jobs will be saved by the President's bill.

What really brings this bill to a screeching halt in the debate is the fact the President said we should pay for this. Let's come up with the money that is going to pay for the things I just described. And his proposal is a simple one. It says those who make over $1 million a year will pay a surtax of 5.6 percent—over $1 million a year in income. That is over $20,000 a week in income. These folks would pay a 5.6-percent surtax, and that surtax would pay for the jobs bill.

If the jobs bill works, and I believe it will, I guarantee a thriving American economy will be to the benefit of those same wealthy people. So asking them to sacrifice a little in this surtax is not too much to ask.

Unfortunately, although some 59 percent of Republicans support this millionaires' surtax, not one of them serves in the Senate. We need to have a bipartisan effort to make sure this is paid for in a reasonable way. The alternative we have heard from the other side that mounted this filibuster against President Obama's jobs bill is, we ought to return to the old way of doing things: tax cuts for wealthy people—not new burdens but tax cuts for wealthy people.

They argue the people who make over $1 million a year are the job creators. That is a phrase they use, ''job creators.'' A survey came out yesterday from the Government Accountability Office, and what it said was 1 percent of those making over $1 million a year actually own small businesses. Most of them are investors. Although there is, I am sure, a worthy calling in being an investor, they are not the job creators they are described to be.

So I say to my friends on the other side of the aisle, this notion of protecting those making over $1 million a year at the expense of a jobs program to move America forward is backwards. We have to come together, and I hope we can start as early as next week. We have to find provisions in this jobs bill we can agree on.

I hope the Republicans would agree we should modernize our schools and build our infrastructure in this country. I hope they agree we should not shortchange our schools and our communities when they need teachers and policemen and firefighters. I hope they would agree that it is a national priority to put our returning veterans to work. I certainly think that should be a bipartisan issue.

But the filibuster this week that stopped the President's jobs bill has stopped the discussion. The trade bills yesterday will not make up the difference. We have to focus on putting Americans to work with good-paying jobs right here in our Nation, creating new consumer demand for goods and services which will help businesses at every single level. The President has put his proposal forward and has challenged our friends on the other side of the aisle to step up and put their proposals forward.

My suspicion is that most people in America would be delighted to see a breakthrough in Washington, DC, where Democrats and Republicans actually sat down at the same table and tried to work out a plan to put America back to work. We can do this. In order to do it we have to give on both sides. We have to forget about the election that is going to occur in November 2012 and focus on the state of America's economy right now in October 2011. If we put aside the campaign considerations and focus on the economy, I think we can get a lot done. I trust that there are some on the other side of the aisle who feel the same way. I hope they will break from their leadership on their filibuster and join us in this effort.

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

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

The legislative clerk proceeded to call the roll.

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

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

Mr. SESSIONS. Mr. President, I wish to speak for a few moments on the nomination of Alison Nathan to be the United States District Court Judge for the Southern District of New York. This is a highly important position. It is one of the more prestigious courts in the country that handles the Nation's most complex cases. It is my observation, having practiced for over 15 years full time trying cases before Federal judges, that this position is of extreme importance and you need good judgment, good experience, good integrity, proven stability before you give a person a lifetime appointment to such a position. It is an important matter.

I overwhelmingly vote for the nominees of the President. I believe in giving the President deference in those nominations. However, I do believe we need to hold Presidents accountable and to scrutinize the nominations in a fair way and not hesitate to push back and say no if a nominee does not meet those requirements that are necessary to be a good judge.

I believe Ms. Nathan is one of a number of President Obama's nominees who believes that American judges should look to foreign law in deciding cases. She has other indications that suggest she is not committed in a deep and understanding way to the oath Federal judges take. That oath is that you serve under the Constitution and under the laws of the United States. That is so simple and so basic that it goes almost without saying, but it is a part of the historic oath judges take. I believe that oath and commitment to serving under the U.S. Constitution, under the U.S. laws, is critical to the entire foundation of the American rule of law. It is so magnificent. We have the greatest legal system in the world. By and large our Federal judges are excellent and it is a strength both for liberty and civil rights and economic prosperity that we maintain a judiciary at a high level.

One of the things that causes me concern—there are several, but this one I will mention—is her belief that American judges should look to foreign law in deciding cases. This is not a little bitty matter. It is a matter of real national import. It offends people. Some people, nonlawyers, get offended. They think they should not do that. They are right, but just because people are upset about it and get angry about it doesn't mean it is not a deep, legitimate concern and can be a disqualifying factor as to whether a person should be on the bench. What law do they follow? The U.S. law or foreign law?

In a book chapter published less than 2 years ago, Ms. Nathan suggested that the cases leading up to the Supreme Court case of Roper v. Simmons, which was a death penalty case, showed legal progress. In Roper the Court held it is unconstitutional to impose a death penalty even for the most heinous crime if the defendant is under the age of 18 years.

As a matter of policy, I am not sure we should be executing people under 18, although a lot of people think that certain crimes are so bad they ought to be executed. We can disagree. That is a political decision. The question is, does the Constitution prohibit that? I suggest it does not. But if it does, it ought to be interpreted in light of its own words and the laws of the United States, its own import of the Constitution of the United States. Ms. Nathan seemed to commend the decision, however, on a different basis in her chapter. She commended it for ''elaborating upon relevant international and foreign law sources and defending the relevance of the Court's consideration of those sources.''

When describing Justice Kennedy's change of opinion on the issue—he reversed himself—she said it was ''a change that can be attributed to the international human rights advocacy and scholarship that had taken place outside the courtroom walls.''

She also praised the Roper attorneys for their ''strategic and savvy reference to international norms in litigating the case.''

She asserted that the strategy's ''effectiveness holds promise and lessons for future advancement of international law.''

She went further and suggested the reason the Supreme Court does not look to foreign law more often is because the Justices simply do not understand international law arguments—she has been practicing law about 10 years, or 9 at the time she wrote this, so she knows more about the issues related to international law than the Justices who have been on the bench for decades, many of them constitutional professors—rather than demonstrating a knowledge that the judge must serve under the U.S. Constitution and U.S. law and recognizing that foreign law has no place in deciding what our Constitution means.

She stated:

> As these trends [in international law] continue, surely the Court will increase its understanding and 'internationalization' of international human rights law arguments.

She then concluded:

> The presence of the Chinese judicial delegation at the Supreme Court on the day of

the Roper arguments wonderfully symbolized the rich dialogue between international and constitutional norms.

So what she is calling for there is a dialog, presumably between international law and constitutional norms—pretty plain in her writing—not just an off-the-cuff comment but in a serious book expressing her philosophy and approach to law.

I am troubled by that. I believe judges have to be bound by the law and the Constitution. They are not free to impose their view. Justice Scalia and others have criticized—devastated—this international law argument. In my view, the debate that has gone forward in circles including the academy and law schools has clearly been a victory for the people who understand it is our Constitution that governs. We didn't adopt the laws of China, if they were ever enforced, which they are not except by the government when it suits them. We didn't adopt laws in France. We didn't adopt laws in Italy or Brazil or Yugoslavia. That is not what binds us. That is not what judges serve under. They serve under our law.

I think it is a dangerous philosophy. It strikes at the heart of what the Anglo-American rule of law is all about—that law is adopted by the people of the United States and that is the law judges must enforce—laws passed by the people of the United States.

Reliance on foreign law, I believe, has been shown to be nothing more than a tool that activist judges who seek to reach outcomes they desire utilize. It is a way to get out from under the meaning of U.S. law. Why else would one cite it? If they cannot find a basis for their decisions in American law and legal tradition, they look to the laws and norms of foreign countries to justify their decisions. As Justice Scalia aptly described it—and he has hammered this theory—courts employing foreign law, including his own court—the U.S. Supreme Court—are merely ''look[ing] over the heads of the crowd and pick[ing] out its friends.''

What did he mean by that? He means the law, the foundation principles of deciding cases. If they don't like what they find in the United States, they look out over their heads and they find somebody in Italy or Spain or China or wherever, and they say: We need to interpret our law in light of what they do in Germany. How bogus is that as an intellectual legal argument?

Judges who engage in this type of activism violate their judicial oath, I believe. The oath is to serve under our Constitution, our laws. It requires judges to evaluate cases in that fashion—not the laws of other countries. Other countries don't have the same legal heritage we have. They don't value the same liberties and the same fundamental freedoms that are enshrined in our Constitution. The decisions of foreign courts have absolutely no bearing on a decision of a judge in a U.S. court, and nominees who disagree with that fundamentally can disqualify themselves from the bench.

It is very hard for me to believe I should vote to confirm a nominee who is not committed to following our law, who believes they have a right to scrutinize the world, find some law in some other country and bring it home and use that law so they can achieve a result they wanted in the case.

There are a number of other concerns I have with Ms. Nathan's record, not the least of which are her views on an individual's right to bear arms. We have a constitutional amendment on the right to keep and bear arms. The right to keep and bear arms should not be abridged. That is an odd thing, compared to France or Germany or Red China. But it is our law and we expect judges to follow it whether they like it or not. That is what our Constitution says.

Suffice it to say, I believe her record evidences an activist viewpoint. Perhaps if she had more legal experience, she would have a better understanding of the role of a judge. She only just became a lawyer in 2000—11 years ago—and has had limited time in a courtroom.

Evidently, the American Bar Association recognizes this. The ABA gives ratings to judges, and a minority of the members of that committee—not the majority but a minority—rate her ''not qualified.'' Frankly, they are a pretty liberal group, so I don't know if it is so much her views on some of these issues, but probably an actual evaluation of the kind of experience and background she brings and whether she would be qualified to sit on an important Federal district court—the Southern District of New York, one of the premier trial benches in the world, and even in America—and I think it is a matter we should consider.

This is a very serious shortcoming for a number of reasons. Litigating in court is valuable experience. It provides insights to someone who would be a judge. It helps make them a better judge if they have had that experience. It gives them a strong understanding that words have meaning and consequences. When we see people get prosecuted for perjury or we see million-dollar contracts decided this way or that way based on the plain meaning of words, we learn to respect words.

Some of these people out of law schools, with their activist philosophy, seem to think a judge has a right to allow their empathy and their feelings to intervene and decide cases based on something other than the words of the contract or the words of the Constitution. It is a threat to American law. Indeed, it is what President Obama has said a number of times. He believes judges should allow their empathy to help them decide cases.

What is empathy? It is their personal views. Whom do we have empathy for? It depends on whom one likes before they come on the bench. So they are deciding cases based on factors other than the objective facts of the case. I believe the practice of law is a real legal testing ground, in which people can prove their judgment integrity over time. It also provides a maturing experience, where a person learns the import of decisions in how cases turn out and how it impacts their clients.

Let me just say that seasoned lawyers develop reputations. When we have seen them in court many times and they have had experience there, people know if they have good judgment. People know if they are solid. We know they are men and women of integrity. They have that opportunity to establish a reputation. Both the short period of time that Ms. Nathan has spent actually practicing law and some of the troubling positions she has taken over the years justifiably raise serious questions about her understanding of the role of a judge in our system.

Finally, I would note that Concerned Women For America, the Family Research Council, and the Judicial Action Group oppose this nomination. In a letter sent to all Senators today, Concerned Women For America noted that Ms. Nathan's:

> . . . biases are so ingrained and so much the main thrust of her career that it is not rational to believe that she will suddenly change once confirmed as a judge. Rather it is reasonable to conclude she would use her position to implement her own political ideology.

I have reached the view that the facts as I have noted—her open defense of the idea that judges can use sources other than our law to decide cases and her lack of experience and proven record of good judgment and legal skill, the fact that a minority of the ABA Standing Committee on the Federal Judiciary found her not qualified to serve on the bench, justifies a vote in opposition to this nomination. I will not block the nomination. We will have an up-or-down vote. But I do think in my best judgment—and that is all I have, my best judgment—after reviewing her resume, looking at how thin her experience is, and her positions on a number of issues, indicates to me that she has the real potential to be an activist judge, not faithful to the law. For that reason, I will vote no.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BOOZMAN. Mr. President, I agree with the Senator from Alabama. In Arkansas, it is so important that we get good judges nominated and confirmed, and that is why I rise in support of Susan Hickey's nomination as U.S. district judge for the Western District of Arkansas.

Judge Hickey's distinguished career interests reflect her pursuit to serve the interests of justice. As an attorney and now as a circuit judge in my home State of Arkansas, she has earned the respect of the Arkansas legal community and proven she is devoted to fulfilling this important role in our judicial system.

I am confident Judge Hickey's extensive experience with the legal system will serve her well on the Federal bench. Her confirmation will fill the seat of retired Judge Harry Barnes, whom she clerked for before her appointment as circuit judge in the Thirteenth Judicial District. She also worked in a private law firm following her graduation from the University of Arkansas School of Law and also served as an in-house counsel for Murphy Oil.

Judge Hickey has strong bipartisan support for good reason: She has established herself as a dedicated public servant who possesses a strong work ethic and commitment to a fair and impartial legal system. Her experience and impartial demeanor and reputation amongst her peers give me faith that Judge Hickey will do a great job as the U.S. district judge for the Western District of Arkansas. When she was nominated for this position, Arkansans from all across the State expressed their support for her confirmation.

I am honored to recommend that the Senate confirm Judge Susan Hickey as a U.S. district judge for the Western District of Arkansas. I am confident her experience and judicial temperament make her the right person to serve Arkansas as a district judge.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I wish to thank my colleague for being here today and expressing his support for Susan Hickey to be a new Federal district court judge in the Western District of Arkansas. She has a strong record in our State. She is exactly what we need in a Federal judge. The fact that we have both home State Senators, one Democrat and one Republican, supportive of the nomination begins to speak volumes about the kind of person and the kind of reputation Susan Hickey has.

She has been in both the public sector and private sector. She has worked inhouse with an oil company, as Senator BOOZMAN said. But she has also law-clerked for a very solid and well-respected Federal judge.

She is now a State court judge in Arkansas at the State trial court level. She has handled 313 felony criminal cases since she has been on the bench. She brings a lot of experience, and she is exactly the kind of person we need to be on the Federal bench.

When I look at a judge candidate, a judge nominee, I always have three sets of criteria: One, are they qualified? Certainly, she is. She brings very strong qualifications and experience to this position.

Second, can she be fair and impartial? I think that is something that comes up with Susan Hickey over and over and over. From her local bar down in south Arkansas, from the people in the community, the folks who have dealt with her, they all say she is an extremely fair person, and they have no doubt she will be impartial as she puts on that Federal district court robe.

Then, my third criterion, does she have the proper judicial temperament? That, obviously, is subjective because that comes down to their personality and their style. But we want a Federal judge who has great demeanor, who is very good with the law, but also very good with lawyers because, obviously, in a trial court they have a lot of type A personalities in the court, and they have to give the proper appearance to the jury. That is critically important for a district court judge. So I would say, absolutely, yes, she has the right judicial temperament.

So I would strongly encourage all of my colleagues to vote favorably for Susan Hickey. Like I said, she has handled 1,690 total matters in the Federal courts since she has been a law clerk there.

Mr. President, 313 total felony cases have been disposed of in her trial court in south Arkansas down in El Dorado. She has a lot of very solid legal experience. The bottom line is, she is just a good person, and people like her and respect her and they trust her.

I think when our Founding Fathers put together the Federal judiciary, this was the kind of person they wanted. She reflects the values and the attitudes of that part of the State. She is smart. She is hard working. She is going to be fair. Really, we could not ask a whole lot more for any Federal judge in any district, and, certainly, she is going to do a great job down there.

So I am proud to be joined by my friend and colleague from Arkansas to support this nomination. If we support her, and if we confirm her today, we will be joining thousands and thousands of people in south Arkansas who have supported her. We have had hundreds, I know, express support for her in my office. I am certain Senator BOOZMAN has had many support her in his office as well.

I encourage my colleagues to give her very strong consideration. She has been rated unanimously ''qualified'' by the American Bar Association.

There, again, in that both home State Senators support her, the American Bar Association supports her, the Arkansas bar—not the association because they do not do those types of endorsements—but every lawyer I have talked to who knows Susan Hickey thinks she will do an outstanding job, I would like to ask my colleagues to vote for her nomination and I appreciate their consideration.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SCHUMER. 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. SCHUMER. Mr. President, I rise to speak today in support of two excellent nominees for the bench from the Southern District of New York. These two women, Alison Nathan and Katherine Forrest, have different backgrounds, but each in her own way represents the best the New York bar has to offer.

Katherine Forrest is a young lawyer but an extraordinarily accomplished lawyer whose practice has been particularly well suited to the needs of litigants in the Southern District. She was born in New York City, received her BA from Wesleyan University, and her law degree from NYU Law School, one of the best in the country. She has spent the majority of her career in private practice at the prestigious, top-line firm of Cravath, Swaine & Moore, where she was on the National A List of Practitioners. She was named one of the American Lawyer's ''Top 50 Litigators Under 45.'' She currently serves as a Deputy Assistant Attorney General in the Antitrust Division of the Department of Justice, where I know she is very well regarded and has served with great distinction. I look forward to Ms. Forrest's transition from position of service to our country to the other.

I also rise in support of Alison Nathan. I would like to counter some of the arguments that have been made against her on the floor here today.

First, Alison Nathan has tremendous legal experience, albeit that she is young. She is a gifted young lawyer whom New Yorkers would be fortunate to have on the bench, hopefully for a long time. Although she is a native of Philadelphia, she has called New York City her home for some time. She graduated at the top of her class from both Cornell University and Cornell Law School, where she was editor-in-chief of the Cornell Law Review. She worked as a litigator for 4 years at the preeminent firm of WilmerHale and has also served in two of the three branches of government. Ms. Nathan clerked for Ninth Circuit Court of Appeals Judge Betty Fletcher and then for Supreme Court Justice John Paul Stevens. Recently, she served with distinction as a Special Assistant to President Obama and an Associate White House Counsel. She is currently special counsel to the solicitor general of New York. Now, that is a world of experience. It is hard to find better experience from somebody being nominated to the bench.

Some of my colleagues have said: Well, her rating from the ABA was not as good and that was based on experience. That is what the ABA does. They claim, these colleagues, that Ms. Nathan lacks the experience to be confirmed as a judge because only a majority of the ABA rated her qualified, while a minority rated her not qualified.

However, Ms. Nathan has the same qualification ratings as Bush administration judges whom this body confirmed. Specifically, the Senate confirmed 33 of President Bush's nominees with ratings equal to Ms. Nathan, including Mark Fuller and Keith Watkins of Alabama, Virginia Hopkins of the Northern District of Alabama, Paul Cassell of Utah, Frederick Martone of Arizona, and David Bury of Arizona. Are we going to have a different standard for Ali Nathan than for other judges? I sure hope not.

Then some have brought up only recently—actually, very recently—the thought that Ms. Nathan would apply foreign law to our own laws. It is patently false to say that Ms. Nathan has suggested or that she believes it is appropriate for U.S. judges to rely on foreign law or that she herself would ever consider doing so. To the contrary. In response to written questions from Senator GRASSLEY, she said explicitly:

> If I were confirmed as a United States District Court Judge, foreign law would have no relevance to my interpretation of the U.S. Constitution.

Let's go through that quote again. This is in reference to a question from Senator GRASSLEY:

> If I were confirmed as a United States District Court Judge, foreign law would have no relevance—

"No relevance," my emphasis—

> to my interpretation of the U.S. Constitution.

My colleagues are also wrong in their suggestion that Ms. Nathan has in the past either relied on foreign law herself or suggested that courts should do so. In the Baze vs. Rees case, she merely described the fact that others, including a law school clinic and Human Rights Watch, had argued in their own briefs that international law could be considered when dealing with questions of pain and suffering. Similarly, in her analysis of the Roper case, Ms. Nathan made an observation about what the Supreme Court had done—specifically, that the Supreme Court had cited foreign law as nondispositive support for their conclusion about the national consensus in the United States about the death penalty. That my colleagues jumped from these two instances in which Ms. Nathan described other peoples' opinions to conclusions about Ms. Nathan's own belief leads me to ask, are judicial candidates not allowed to describe the arguments that others have made? That would be rather absurd. I cannot imagine it is the outcome my colleagues would want, but it is the one to which their arguments naturally lead.

Finally, on national security, where again some from the outside who have criticized Ms. Nathan have brought up national security, here is what she has said:

> I think it is important for a Federal district judge to follow the Supreme Court. It is important to our national security for there to be judges who follow the law in this area—

National security—

> to the extent questions come before them and that Congress acts as it has in this area.

That is good reason that she is supported by all of the law clerks she served with, including those of Justices Thomas, Scalia, Kennedy, and O'Connor. And obviously those Justices are not Justices who agree with some of the other Justices on the Court, but their law clerks uniformly supported Ali Nathan.

So I would urge my colleagues to support Ali Nathan. She will be an outstanding addition to the bench in the Southern District of New York, as well as Katherine Forrest, who will also be an outstanding addition.

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

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

The bill clerk proceeded to call the roll.

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

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

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Alison J. Nathan, of New York, to be United States District Judge for the Southern District of New York?

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from North Carolina (Mrs. HAGAN), the Senator from Iowa (Mr. HARKIN), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from West Virginia (Mr. MANCHIN), and the Senator from Michigan (Ms. STABENOW) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Oklahoma (Mr. COBURN), the Senator from Indiana (Mr. LUGAR), and the Senator from Louisiana (Mr. VITTER).

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

The result was announced—yeas 48, nays 44, as follows:

[Rollcall Vote No. 164 Ex.]

YEAS—48

Akaka	Franken	Nelson (NE)
Baucus	Gillibrand	Nelson (FL)
Begich	Inouye	Pryor
Bennet	Johnson (SD)	Reed
Bingaman	Kerry	Reid
Blumenthal	Klobuchar	Rockefeller
Boxer	Kohl	Sanders
Brown (OH)	Landrieu	Schumer
Cantwell	Lautenberg	Shaheen
Cardin	Leahy	Tester
Carper	Levin	Udall (CO)
Casey	McCaskill	Udall (NM)
Conrad	Menendez	Warner
Coons	Merkley	Webb
Durbin	Mikulski	Whitehouse
Feinstein	Murray	Wyden

NAYS—44

Alexander	Barrasso	Boozman
Ayotte	Blunt	Brown (MA)
Burr	Heller	Murkowski
Chambliss	Hoeven	Paul
Coats	Hutchison	Portman
Cochran	Inhofe	Risch
Collins	Isakson	Roberts
Corker	Johanns	Rubio
Cornyn	Johnson (WI)	Sessions
Crapo	Kirk	Shelby
DeMint	Kyl	Snowe
Enzi	Lee	Thune
Graham	McCain	Toomey
Grassley	McConnell	Wicker
Hatch	Moran	

NOT VOTING—8

Coburn	Lieberman	Stabenow
Hagan	Lugar	Vitter
Harkin	Manchin	

The nomination was confirmed.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Susan Owens Hickey, of Arkansas, to be United States District Judge for the Western District of Arkansas?

The Senator from Vermont.

Mr. LEAHY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from California (Mrs. BOXER), the Senator from North Carolina (Mrs. HAGAN), the Senator from Iowa (Mr. HARKIN), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from West Virginia (Mr. MANCHIN), and the Senator from Michigan (Ms. STABENOW) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Oklahoma (Mr. COBURN), the Senator from Indiana (Mr. LUGAR), and the Senator from Louisiana (Mr. VITTER).

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

The result was announced—yeas 83, nays 8, as follows:

[Rollcall Vote No. 165 Ex.]

YEAS—83

Akaka	Feinstein	Murkowski
Alexander	Franken	Murray
Ayotte	Gillibrand	Nelson (NE)
Barrasso	Graham	Nelson (FL)
Baucus	Hatch	Portman
Begich	Heller	Pryor
Bennet	Hoeven	Reed
Bingaman	Hutchison	Reid
Blumenthal	Inhofe	Risch
Blunt	Inouye	Roberts
Boozman	Isakson	Rockefeller
Brown (MA)	Johanns	Rubio
Brown (OH)	Johnson (SD)	Sanders
Cantwell	Johnson (WI)	Schumer
Cardin	Kerry	Sessions
Carper	Kirk	Shaheen
Casey	Klobuchar	Snowe
Chambliss	Kohl	Tester
Coats	Landrieu	Thune
Cochran	Lautenberg	Toomey
Collins	Leahy	Udall (CO)
Conrad	Levin	Udall (NM)
Coons	McCaskill	Warner
Corker	McConnell	Webb
Cornyn	Menendez	Whitehouse
Crapo	Merkley	Wicker
Durbin	Mikulski	Wyden
Enzi	Moran	

NAYS—8

Burr	Kyl	Paul
DeMint	Lee	Shelby
Grassley	McCain	

NOT VOTING—9

Boxer	Harkin	Manchin
Coburn	Lieberman	Stabenow
Hagan	Lugar	Vitter

The nomination was confirmed.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Katherine B. Forrest, of New York, to be United States District Judge for the Southern District of New York?

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motions to reconsider are considered made and laid upon the table and the President will be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

The majority leader is recognized.

MORNING BUSINESS

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

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

The Senator from Illinois.

IRAN SANCTIONS

Mr. KIRK. With regard to our policy toward Iran and the recent revelation of a potential attack involving not just foreign embassies and ambassadors but Americans, potentially Senators, being killed by a plot hatched by the Iranian Revolutionary Guard and Quds Force, there should be consequences, not just concerns expressed from the administration. We have witnessed a growing aggressiveness by the Iranian regime toward the United States and toward their own people.

For example, recently, an Iranian actress who appeared uncovered in an Australian film was then sentenced to 90 lashes for her so-called crime. With regard to the 330,000 Baha'is, a religious minority in Iran, first they were excluded from all public contracting, then they were told all their children had to leave Iranian universities, and then all their home addresses were registered in secret by the Iranian Interior Ministry.

I would suggest we have seen this movie before in a different decade wearing different uniforms. But this is the bureaucracy necessary to carry out a Kristallnacht in Farsi.

We have seen, for example, the Persian world's first blogger, Hossein Ronaghi, who was thrown into jail simply for expressing tolerance toward other peoples and other religions. Probably most emblematic, we saw the jailing of Nasrin Sotoudeh, a young mother and a lawyer, whose sole crime was to represent Shirin Ebadi, a Noble Prize winner, in the courts of Iran.

We hear and have watched unclassified reports of an acceleration of uranium enrichment in Iran. We even have the irony, according to the International Monetary Fund, that despite comprehensive U.N. and U.S. sanctions—according to the IMF—Iran had greater economic growth last year than the United States and the Iranian indebtedness is only a fraction of U.S. indebtedness. According to the IMF, the United States owes about 70 percent of its GDP in debt held by the public. For Iran, it is only 5.5 percent.

Now the United States has enacted a new round of sanctions against Iran. President Obama signed it into law last year. There were 410 votes in the House, and it was unanimous in the Senate. I worked for many years on a predecessor to that legislation when I was a Member of the House. The record of the administration, and especially our very able Under Secretary of the Treasury David Cohen, has been very good at implementing that bill. He has been very successful in reducing formal banking contacts between American, European and Asian banks and Iran. It is very important, when we look at the situation of how to deal with Iran, that we not see it from Washington's view, looking toward Iran, in which we see an awful lot of banks and an awful lot of transactions shut down, but look at it from Tehran's view, looking back from the United States, and we will see a quickly growing Iranian economy, a growing record of brazen oppression, actresses sentenced to 90 lashes, Noble Prize-winning attorneys thrown in jail, an accelerating nuclear program, and then a decision by the head of the Iranian Revolutionary Guard Corps, Quds Force, to attack the United States.

Long ago, I thought it was a mistake to have the Drug Enforcement Agency left outside of the U.S. intelligence community. Luckily, we reversed that decision and we brought DEA back into the intelligence community. It was a lucky strike that the person who was contacted by the Quds Force to carry out an attack on the United States actually contacted a confidential informant working for the DEA. It was on that lucky break that we had the ability to break this plot. But if we read Attorney General Holder's complaint against the defendant involved, we will see—I believe it is on page 12—a rendition of how, if they could not kill the Ambassador outside the restaurant, it was perfectly OK with the Quds Force operator that a bomb go off involving dozens—if not over 100—of Americans killed. The bonus, he thought, maybe a large number of Senators would be involved. If that was necessary to kill this Ambassador, all the better.

The Treasury Department has designated, finally, the head of the Quds Force under our law. But it is ironic that when we look at the comprehensive record of designations, the Europeans, who actually are not known for their strong-willed backbone on many international questions, have a more far-reaching effect on calling it the way they see it in Iran. Both Europe and America now have a regime to bring forward sanctions and designations against Iranians who are ''comprehensive abusers of human rights.''

Currently, our government has only designated 11 Iranians, where the European Union has designated over 60. One of the people missed by our administration is the President of Iran, Mahmud Ahmadinejad, who often talks about ending the state of Israel. Probably the only head of state of a member of the United Nations who regularly talks about erasing another member of the United Nations from the planet. We also have not designated President Ahmadinejad's chief of staff. We have not designated dozens of people that even the European Union has designated as comprehensive abusers of human rights.

So what should we do when we have uncovered a plot to attack the United States in which the highest levels of the Iranian Revolutionary Guard Quds Force was involved? Thank goodness for the DEA and the rest of the law enforcement and intelligence community of the United States, the plot was foiled, and so no attack was carried out. In my mind, we should take the toughest action possible, short of military action. Is there consensus in the Congress behind what that action should be? I would argue yes.

Senator SCHUMER and I, this summer, put forward what we feel is one of the real, most crippling sanctions the United States could deliver against Iran; that is, to ensure that any financial institution that has any contact with the Central Bank of Iran be excluded from the U.S. market. Because the United States is the largest economy on Earth, we believe nearly every financial institution on the planet will cut its ties to the Central Bank of Iran. That, most likely, would cripple Iran's currency and cause chaos within their economy. You know what. Iran might actually suffer a recession, which it currently is not in, and I think that would be an appropriate price to pay.

When Senator SCHUMER and I reached out to the Senate to ask for support, I was very surprised at the answer because all but eight Senators signed our letter. There were 92 Republicans and Democrats who signed the letter stating it should be the policy of the United States to collapse the Central Bank of Iran, to cripple its currency. After what we learned this week of a plot to kill Americans and to carry out terrorist attacks on the Capital City of the United States, I think that represents appropriate consequences, not just concerns.

We heard from the administration this morning—and while I was encouraged by the diligent work, especially of the Treasury Department, I was concerned about another thing. There are press reports that the administration

learned about this plot in June and only revealed it to us the day before yesterday. So the administration has had months to understand what this plot meant and plan for the consequences. Yet except for minor actions against a small airline in Iran called Mahan Air, except for actually finally designating the head of the Iranian Revolutionary Guards' Quds Force, we have no comprehensive action by the United States.

My recommendation to this House and to the administration is we should take yes for an answer. With 92 Republicans and Democrats all standing behind an effort to collapse the Central Bank of Iran, this is the appropriate sanction. On top of that, we have the Menendez bipartisan legislation to close loopholes in the sanctions already cosponsored by 76 Senators. This is a tough time of partisanship in Washington. We don't get bipartisan issues such as this that often. I am surprised, it having known about this plot since June, the administration has not already put forward action, but I would urge them to do so. This was not a multilateral attack by a collection of countries on the United States; therefore, I don't think we should wait for multilateral approval before the United States acts against the Iranian Revolutionary Guard Corps and the highest levels of the Iranian Government. We should designate the full list of comprehensive abusers of human rights the way the EU has done. We should exclude any financial institution from the United States that does business with the Central Bank of Iran. We should make sure that in the case of high-level Iranian officials who have plotted an attack, potentially involving dozens of American deaths right here in the Capital City of the United States, there should be severe consequences, they should be fairly swift, and our inaction should not be mistaken for weakness in the face of what is one of the most brazen international acts we have seen in recent times.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I ask unanimous consent to be recognized for up to 20 minutes as if in morning business.

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

Mr. INHOFE. Let me make one comment to the Senator from Illinois. I am glad he said what he did. It is very significant. People don't look at Iran as seriously as they should. It is not even classified that Iran is going to have the capability of a weapon of mass destruction and a nuclear warhead and a delivery system by 2015. That was the very reason they were going to have a ground-based interceptor in Poland, so we can defend against something coming from that direction, since all our ground-based interceptors are on the west coast in Alaska and southern California.

When we see things such as this, and the fact that they are coming out and doing things they haven't done before, that just tells me our expectations of their nuclear capability are very true and it is very serious

JOBS BILL

That is not what I want to talk about. In the wake of the defeat of President Obama's jobs bill, I wished to give a couple thoughts here and then talk about something we better look out for in the future. That jobs bill failed by a large margin, and we heard the President say: Pass the bill, pass the bill, pass the bill. We didn't pass the bill. I can see why the President wants to consider passing some kind of jobs bill right away, when we stop and remember what he did with the last one. The last stimulus bill was $825 billion. This package was rammed through the Congress shortly after he entered office. The Recovery Act, as it was called, had only $27 billion out of $825 billion for roads and highways. The occupier of the chair is very well aware of my concern over infrastructure in America.

I remember when that bill was on the floor and Senator BOXER, from California, and I had an amendment to increase that amount. It was only 3 percent of the total of $825 billion that would go to roads, highways, maintenance, bridges, and this type of thing—only 3 percent. We were trying to raise that to 30 percent. If that had happened, then look where we would be today. We would have the jobs, we would have all the shovel-ready jobs throughout America.

In my State of Oklahoma, our portion of that would have been well spent just distributed in the way that we had the formula after the 2005 highway reauthorization bill. Anyway, that actually was only 3 percent. It was only $27 billion out of $825 billion. The one we just defeated was a $447 billion stimulus bill. It only had $27 billion in roads, highways, construction, maintenance—the things that provide jobs and the things this country needs.

I have been ranked as the most conservative Member of the Senate seven different times in the past. Yet I readily say I am a big spender in two areas: One is national defense and the other is infrastructure. I think that is what we are supposed to be doing here. We are in a desperate situation with our infrastructure around the country.

So one might say, well, the President had the $825 billion stimulus package and only $27.5 billion went to roads and highways. What happened to the rest of it? Well, the rest of it, in spite of what he said—I am going to read what he said—right after the passage of the bill, when he was signing the bill, the $825 billion stimulus bill, he said:

> What I'm signing, then, is a balanced plan with a mix of tax cuts and investments. It's a plan that has been put together without earmarks or the usual pork barrel spending. It's a plan that will be implemented with an unprecedented level of transparency and accountability.

Well, stop and remember as I tell my colleagues what this actually went for. It is clear the most recent example was this loan guarantee with Solyndra. Everyone here is aware of what happened with Solyndra. We know it was a firm that was producing supposedly green energy. We know the people who were behind this loan guarantee of $535 million were big contributors to the administration, and they went ahead and were able to get bailed out—not bailed out, but get their loan guarantee—costing the taxpayers $½ billion, and that is part of what was in this bill. That is where the money was. The genesis of that was the $825 billion stimulus bill.

I am reminiscing a little bit about what happened back in the middle 1990s, back when Bill Clinton was President of the United States, when we had a very similar thing happen at that time. There is a company called the Loral Corporation. The Loral Corporation is headed up by Bernard Schwartz. Bernard Schwartz was one of the biggest contributors to the Democratic national party and to Bill Clinton. Bernard Schwartz, the company, the Loral Corporation, built a guidance system for a missile so that missile could be more accurate. Even though China wanted to have that system so they would be able to guide their missiles more accurately, for obvious reasons we didn't want them to have it. So it took a waiver signed by the President of the United States. President Bill Clinton did it. He signed the waiver and they got the money. I see similarities in here. I think, again, everyone is familiar with that.

How did they get the money? Where did it come from? The $825 billion in the stimulus bill.

Let's look. Since the President gave that statement, which I will read again—he said:

> What I'm signing, then, is a balanced plan with a mix of tax cuts and investments. It's a plan that has been put together without earmarks or the usual pork barrel spending.

What do we call the Solyndra thing? It is porkbarrel spending.

What about the earmarks? This is a confusing thing for most people because my well-meaning conservative friends in the House of Representatives a couple of years ago put a 1-year moratorium on earmarks, and earmarks would be defined, of course, as appropriations or authorizations. By doing that, it totally contradicts what the Constitution, article I, section 9, says we are supposed to be doing here. It says we are supposed to be doing the appropriations and the authorizations. That is specifically precluded from the President in the article of the Constitution. So it is one that was very obvious. We find out later that the person who was behind that was none other than President Obama.

There is a reason for this. Because most people don't understand there are two different kinds of earmarks. One is congressional earmarks. That is when

a Congressman, a lot of times in the dark of night, will try to put something down that maybe is not in the best interests of the United States but helps his district. That occasionally happens. It shouldn't happen. Under our system, it won't happen if we require all appropriations to be authorized. But the other kind, in addition to the congressional earmarks, are bureaucratic earmarks. That is what the President can do.

I will give an example. I am on the Armed Services Committee. The President's budget comes out. He says what we should spend money on to defend America. A couple of years ago, before this moratorium the Republicans put on in the House, one of the lines he had in his budget was $330 million for a launch system called a bucket of rockets. It was a good system, and I would like to have that system for defending America. But we thought in our committee that the same $330 million would be better spent on buying six new FA–18E/F model strike fighters for our Air Force. Well, we could do that, except that would be called an earmark. When we destroy an earmark, we don't save any money, we just say, Mr. President, we are not going to do it, so you go ahead and you do it. Consequently, we were able to take the $330 million and put it in the FA–18s, but after that would pass, that would be called an earmark, and so the President would have all the power.

If we look back at the $825 billion stimulus bill, we can look at some of the things that were in there. He said he wasn't going to have any earmarks. These are Presidential earmarks: $219,000 to study the hookup behavior of female college co-eds in New York; $1.1 million to pay for the beautification of Los Angeles' Sunset Boulevard; $10,000 to study whether mice become disoriented when they consume alcohol in Florida; $712,000 to develop machine-generated humor in Illinois; $259,000 for foreign bus wheel polishers in California. It goes on and on.

There is $150,000 for a Massachusetts middle school to build a solar array system on its roof; $1 million to do research on fossils in Argentina. Here is a good one. I will not attribute this to my two good friends who are Senators from Wyoming, but $1.2 million to build an underpass for deer in Wyoming.

That is what the President put in. Those are all earmarks. Consequently, I think what we are trying to get to here is if he had been successful in the $447 billion stimulus bill earlier this week, then we could anticipate the same type of thing happening.

I want the conservatives of America to wake up to the fact that the problems we have, when they talk about earmarks, are not congressional earmarks, they are bureaucratic earmarks.

It wasn't long ago that Sean Hannity on his show had a feature, I think it took him several nights to do it. It was the 102 most egregious earmarks. He named all of these earmarks, one after another, and went on and on and on. I came down to the Senate floor the morning after that and I read that same list. There were 102 earmarks, very similar to what I read. The interesting thing about it—and I said this on the Senate floor at that time—what did these 102 earmarks have in common? Not one was a congressional earmark. They were all bureaucratic earmarks.

We are going to be attempting to do something about this, because it is something that almost everyone would agree needs to be done. What we are going to introduce and the bill I am working on now, and I am gathering some cosponsors, is legislation that will bring real transparency and accountability to this process. It would do this by involving Congress in the grant-making process.

Right now, agencies are required to disclose a lot of information about grant awards, but not until after they are already awarded. We don't know about them. Even we here in this Chamber don't know about them until some unelected bureaucrat actually makes these what I would refer to as bureaucratic earmarks. So it is setting up a system very similar to the Congressional Review Act.

The Congressional Review Act lets us look at the regulations and have a process by which we can stop the bureaucrats from passing regulations that we may think as elected Members, elected by the people, are not good. This will do essentially the same thing the CRA does for regulations, it would do for these earmarks. So it is something we will be active in. I think back now, if we had not defeated that $447 billion stimulus bill the first part of this week, we would be looking at right now, and I am sure they would be putting together, their list of earmarks.

I think we have an opportunity now to do two things. No. 1, when the President—and I say when, and not if—when the President comes up with another jobs bill, let's look at it very carefully to make sure we have everything specifically in there if it is going to be deserving of our votes. I say that to each individual, Democrat and Republican, in this Chamber.

The second thing is make sure we don't open the door for him to be able to come up with another several hundred billion dollars of earmarks as we did in the $825 billion stimulus bill 2 years ago.

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

The PRESIDING OFFICER (Mrs. MCCASKILL). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Oklahoma.

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

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

Mr. INHOFE. Madam President, since there is no one seeking time right now, even though I have used my time, I ask unanimous consent to be recognized again for up to 10 minutes.

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

ENERGY

Mr. INHOFE. Madam President, I heard a report today from Senator MURKOWSKI. Apparently, the Energy Committee had a hearing on the 90-day shale gas report. I think this is very significant. I am sure she will come down and talk about it in detail. I didn't even know about it until noon today when she gave her report and I happened to be there, but it is something that is very significant.

In this country we talk about energy and the fact that we have enough energy we can produce domestically in the United States of America to run this country for 100 years in terms of gas, with present consumption, and 50 years as far as oil is concerned, and we are dependent upon oil, gas, and coal to run this country, and those are something—a lot of people are saying we have to do away with fossil fuels. Every time I hear people say that, it is kind of laughable, when they say we have to do something about our dependence on foreign oil by doing away with our own production in this country.

Our problem is not that we do not have the amount of coal, oil, and gas that we need to be totally independent from anybody. We do. But, politically, we have obstacles. There is not one other country in the world where the politicians will not let that country develop its own resources except for the United States of America.

It is kind of interesting. It was not too long ago when President Obama, who is very much in line with some of the far-left environmentalists who want to do away with fossil fuels, was realizing people were catching on, and people knew that with all the shale deposits that are out there—and every week that goes by, we find another great big opportunity for shale; this is both oil and gas—and the President said gas is plentiful, and we need to use more gas, and all that. But at the end of his speech, he said: We have to do something about that procedure called hydraulic fracturing.

Anyone who understands energy knows that to get at all of these deposits—these shale deposits of gas or oil—you have to use a procedure called hydraulic fracturing. It happens we know something about it in my State of Oklahoma because in 1948 the first well was cracked, and we have not had one documented case in 60 years of ground water contamination as a result of hydraulic fracturing. So it is something that does work.

But those individuals who want to make people think they are wanting us

to develop our own resources then turn around and say we are going to stop or have the Federal Government regulate hydraulic fracturing. It is totally inconsistent, and I think it is a direct effort to misinform the people.

So in this meeting today, Senator MURKOWSKI did a handout, and I am going to read a couple of the quotes from some of the people who had previously testified before the committee. Keep in mind, this is after a 90-day shale gas report. They talked about hydraulic fracturing and all of that.

One quote is from Dr. Daniel Yergin, who is chairman of IHS Cambridge Energy Research Associates, and he is a bestselling author. He said:

> There's a gap in perception—this idea that oil and gas is not regulated. We were all impressed by the quality and the focus, the long experience of the states in regulating oil and gas. . . . There's a strong backbone to it and that is not as well recognized in some circles. So I think there is a very strong fabric here.

Here is a quote. This is from Kathleen McGinty. I remember her from when she was an aide to Al Gore. She was chair of the Council on Environmental Quality during the Clinton administration. She said:

> We didn't come up with any conclusion—

This is the 90-day shale report—

> that the deck chairs need to be shuffled around. . . . There was nothing in the testimony that we heard or in the substance that we focused on or in the ''what'' needed to be done that led to a glaring conclusion that there was an actor missing from the scene.

Well, this is someone who comes from, completely, the other side. So I think it is very important. The more times you look at this thing, the more there is an awareness of the people—that is heightened almost on a daily basis—that we have all this opportunity, and we are not doing it just because of the political obstacles.

Dr. Stephen Holditch is the petroleum engineering department head, Samuel Roberts Noble chair, and professor of petroleum engineering at Texas A&M University. He said:

> Local control, local understanding of best practices is really the best way to go. . . . There's nothing broken with the system now.

My State of Oklahoma is an oil State. A lot of our stuff is pretty shallow. On the other hand, in the Anadarko Basin, we have some of the more deep things. But if you look, for 60 years the States have regulated hydraulic fracturing, and it has worked very well. It is not one of these one-size-fits-all because in some States—when you get in New York and Pennsylvania, now, and the Marcellus Shale, the stuff is pretty deep, but it is abundant. Well, the regulation there would be different than it would be in my State of Oklahoma or in Louisiana or in New Mexico or any of the other oil States.

I was really glad to see this come out, and I am glad Senator MURKOWSKI is now letting people become aware of it because we have enough oil, gas, and coal to be totally independent, if we can just get the obstacles out of the way. One of the techniques used in being able to recover this, of course, is hydraulic fracturing. So that is why a lot of the people who are trying to shut down fossil fuels are trying to shut down that process.

I had an experience—I wish I could remember the name of the company, but it was in Broken Arrow, OK—during the recess, where I was calling on different people, and there was a young man who started a company. He had been with a larger one. He is making platforms for hydraulic fracturing. Now, a platform is about one-fourth of the size of this Chamber I am speaking in right now. It is a very large thing. On the platform, so they can hydraulically fracture these wells, they have a very large diesel engine. A regulation came through—I was not even aware of this until I sat down with him; this is less than 1 month ago—he said the regulation was that you can no longer build platforms and use them for hydraulic fracturing unless you have a tier 4 engine.

Well, we went to check, and he was right. There is no tier 4 engine. It is on the drawing boards, but it is not available commercially now. So that is just another way through regulation they are trying to do away with hydraulic fracturing.

So we have to be on our toes, and we have to have a wake-up call for the American people. If we want to have good, clean, abundant, cheap energy, we have it right here in the United States of America, and we need to knock down the political obstacles and develop our own resources like everybody else does.

With that, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. KERRY. Madam President, I ask unanimous consent that the Senate proceed to executive session to consider the following nomination: Calendar No. 287; that the nomination be confirmed, the motion to reconsider be made and laid upon the table, with no intervening action or debate, and that no further motions be in order to the nomination; that any related statements be printed in the RECORD; that the President be immediately notified of the Senate's action and the Senate then resume legislative session.

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

The nomination considered and confirmed is as follows:

DEPARTMENT OF STATE

Sung Y. Kim, of California, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Korea.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. KERRY. Madam President, I ask unanimous consent that at a time to be determined by the majority leader, in consultation with the Republican leader, the Senate proceed to executive session to consider Calendar No. 78; that there be 4 hours for debate equally divided in the usual form; that upon the use or yielding back of time, the Senate proceed to vote without intervening action or debate on Calendar No. 78; that the motion to reconsider be considered made and laid upon the table, with no intervening action or debate; that no further motions be in order to the nomination; that any statements related to the nomination be printed in the RECORD; that the President be immediately notified of the Senate's action and the Senate then resume legislative session.

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

Mr. KERRY. Madam 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.

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

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

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. REID. Madam President, I ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

The PRESIDING OFFICER. There being no objection, the Senate, at 3:43 p.m., recessed subject to the call of the Chair.

JOINT MEETING OF THE TWO HOUSES—ADDRESS BY THE HONORABLE LEE MYUNG-BAK, PRESIDENT OF SOUTH KOREA

Thereupon, the Senate, preceded by the Deputy Sergeant at Arms, Martina Bradford, the Secretary of the Senate, Nancy Erickson, and the Vice President of the United States, JOSEPH R. BIDEN, proceeded to the Hall of the House of Representatives to hear an

address to be delivered by the Honorable Lee Myung-Bak, President of South Korea.

(For the address delivered by the President of South Korea, see today's proceedings of the House of Representatives.)

Whereupon, at 5:03 p.m., the Senate, having returned to its Chamber, reassembled and was called to order by the Presiding Officer (Mr. FRANKEN).

The PRESIDING OFFICER. The majority leader.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent to speak up to 20 minutes in morning business.

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

TRADE MEASURES

Mr. BROWN of Ohio. Mr. President, this Chamber considered trade measures this week for the first time in about 4 years. First, and most important, the bipartisan currency measure passed by an overwhelming majority, 63 to 35. This action on China's currency is long overdue. This is legislation of which I was the prime sponsor. We had major cosponsors in both political parties: LINDSEY GRAHAM of South Carolina, a Republican; CHUCK SCHUMER of New York, a Democrat; DEBBIE STABENOW from Michigan, a Democrat; JEFF SESSIONS from Alabama, a Republican; SUSAN COLLINS, a Republican from Maine; KAY HAGAN, a Democrat from North Carolina; BOB CASEY, Democrat from Pennsylvania. This was a strong bipartisan bill. My junior Senator, ROB PORTMAN from Ohio, former Trade Representative under President Bush, supported the legislation.

Basically it works this way. We know the kinds of job losses in places such as Duluth, MN or Toledo, OH, because China cheats. Pure and simple, they cheat. They depreciate or overappreciate their currency, making a weaker renminbi. That is the name of their currency term. When a company in Dayton, OH, or Youngstown, OH, sells a product into the Chinese market that the people of Xian or Wuan might consider buying, this company is faced with a 25- to 30- to 35-percent currency tax, currency tariff, making the product more expensive, making it much harder for the U.S. company to sell the product to China. At the same time going back the other way, the company in China, or the government in some cases, selling into the U.S. market gets a 25-, 30-, 35-percent subsidy, making it so much easier to sell.

I will give one perfect example, a regrettable example. There is a company about 20 miles from where I live in Brunswick, OH, owned by the Bennett Brothers whom I met fairly recently in Cleveland, 25 miles outside of Cleveland, called Automation Tool and Die. The Bennett Brothers had a million dollar sale that they thought they were about to fill and at the last minute a Chinese company came in and underpriced them by 20 percent. That was the currency subsidy that Chinese company had. What is fair about that?

I learned today a paper company in Hamilton, OH, right smack in the middle of the home county and home district of the Speaker of the House, announced its closing. One of the main factors was low-cost imports from China.

When it comes to paper, here is what the Chinese do. They buy their pulp in Brazil, they ship it from Brazil to Chinese paper mills—in some sense across two oceans. They mill it, they ship it back to the United States, and yet they underprice us. Even though labor is 10 percent of the cost of paper production, they underprice us because apparently they subsidize water and energy and land and capital, plus they get this 25-percent currency subsidy.

Our trade deficit with China, which has more than tripled in the last decade after China was let into the World Trade Organization, pledging to follow the rule of law but breaking that pledge every day of the year—our trade deficit with China, now $275 billion for the year, has risen through the economic food chain all the way through advanced technology products. What used to be made in China 10 years ago was similar—the Presiding Officer remembers growing up in Minnesota in the 1950s and 1960s when ''Made in Japan'' always used to mean something was cheap and sort of badly made. ''Made in China'' 10 years ago usually meant the cheapest products, the tchotchke kind of products. Today, with ''Made in China,'' they have worked their way up the technology chain so they compete with our wind turbine component production and they compete on all kinds of high-level kinds of goods.

In addition to paper, steel, aluminum, glass, and cement, all the things that have created the middle class in my State for decades, we are competing with China for jobs in solar and wind and clean energy component manufacturing and in the auto supply chain. We can compete on productivity. We have skilled workers. We have world-class infrastructure—although God knows it needs renovation and modernization. But how do you compete against an automatic across-the-board 25- to 30-percent subsidy?

I thank my colleagues this week for voting for that legislation—63, including the Presiding Officer's support—including the support to manufacturing. We need to pass that bill in the House of Representatives. The Speaker of the House has so far said he is not inclined to bring it up. I think the White House has so far not supported this legislation, but we know the kind of broad bipartisan support it has and how important it is so we can begin to reenergize manufacturing in this country.

At the same time we took a step back this week, after the China trade currency bill, which was very progressive, important legislation for our manufacturing—we took a step back by passing trade deals with Colombia, South Korea, and Panama that will do more harm than good.

It is kind of amazing. Probably the too often used quote from Einstein where he said the definition of insanity is doing the same thing over and over and expecting a different result is exactly what has happened in trade agreements. Go back 20 years—18 years, in 1993, President Clinton—mimicking President Bush, who had negotiated the agreement—said the North American Free Trade Agreement would create 200,000 jobs in our country quickly. We have lost 600,000 net jobs because of NAFTA. That same model of NAFTA with investor-state relations—with investor-state provisions and other things, gave rise to the Central America Trade Agreement and other agreements that cost us jobs. Every time the administration—either party, it doesn't matter—promises these trade agreements will create jobs, they never do. This body, again—Colombia, North Korea, Panama—a strong majority of Senators again bought that line, ''Hey, this is going to create jobs,'' and it never does.

The same promises, businesses promise jobs will increase exports. They only talk about half of it. They say NAFTA, CAFTA, the Korea Free Trade Agreement, the Panama Free Trade Agreement, Colombia Free Trade Agreement, are going to mean more exports. Talking only about exports is like telling a baseball score and only reporting half of the score. Yesterday, the season obviously mercifully ended for the home team of the Presiding Officer, but it is like saying yesterday the Twins scored eight runs. Good for them, but the Indians scored 12. But they only told you about the Twins' runs. You don't report baseball scores that way. You report scores like the Twins got 12, the Indians only got 8, and it was 12 to 8 or the Tigers won 3 to 2.

With trade, the people who support these trade agreements are the same ones who say it lets us increase the exports. Maybe it is, but imports are increasing much more dramatically.

President Bush once said $1 billion in trade surplus or trade deficit translated into 13,000 jobs. If you have a $1 billion trade deficit, if you are selling more than you are buying, that creates 13,000 jobs. If you are buying more than you are selling, if you have a $1 billion trade deficit, you lose 13,000 jobs. You know our deficit is in the range of $600 billion. Do the math. Each time we

pass one of these trade agreements—and it will probably happen with Korea and Colombia and Panama—each time we do it, the trade deficit rises. Our trade deficit with China has more than tripled. Before NAFTA we had a trade surplus with Mexico and small trade deficit with Canada. After NAFTA, which was a trade agreement among the United States, Canada, and Mexico, the trade deficit with Canada exploded. The trade surplus with Mexico went from a surplus to a deficit. We know this does not work.

We have a serious jobs crisis on our hands, 14 million people out of work. We hear Senators talking about that all the time—another 15 million underemployed or stopped searching for work. The economy must have 150,000 new jobs each month simply to keep up with population growth. So what do we do? We add a Korea agreement, a Colombia agreement, a Panama agreement, none of which will create jobs. They never do. They promise them, but they never do. That is because these trade agreements do not tell the whole story about how a trade agenda can actually create jobs.

I want trade, I want more trade. I think the American people want more trade, but the American people know these trade agreements don't serve us as a nation. It is impossible. I know you hear this in Duluth, you hear it in Rochester, you hear it in Minneapolis. I hear it in Cincinnati, I hear it in Columbus, I hear it in Zanesville. When unemployment is far too high, our constituents demand that Washington do its job and help folks get back to work.

We tried to do that this week on another issue and that was the President's jobs bill. When I heard Senator MCCONNELL, the Republican leader, say—it is almost a direct quote—my No. 1 goal in 2011 and 2012 is to make sure Barack Obama doesn't get reelected—I never heard a leader in the U.S. Senate to my knowledge in history ever say that was his No. 1 goal. Of course, the Presiding Officer and I will support Barack Obama. That is what happens in politics—you hear the leader of one political party say my No. 1 goal is to defeat the sitting President of the United States. And he rounds up his troops to vote no against any job creation bill that President Obama offers. In fact, he didn't just vote against this bill and led every Republican to do that, he led his Republican troops to say: No, we are not going to let it come to the floor to be debated.

Senator CARDIN was speaking earlier, and I was presiding. He was incredulous in many ways—that the leader of one party would say on the jobs bill, of all things, we are not even going to allow it to come to the floor to debate and offer amendments. Senator CARDIN had several amendments I thought sounded like a good idea. A lot of us have amendments to the jobs bill, and we wanted a chance to offer them. Yet Republicans—because of this dysfunctional rule that we have to have 60 votes to even put up a bill for debate—the Republicans say: No, we are not even going to debate it.

Let me take one part of that bill that is particularly important. The average U.S. public school building is 40 years old. Many are older; some are newer. The average public school building is 40 years old. I know what I preach to my kids. I know what my neighbors preach. I know what we preach as politicians. I know what almost everybody says in this country. We say to our children and the pages—people who are 15, 16, 17 years old—education is the most important goal to pursue, the most important in our country.

What do we do? We send them to crumbling old school buildings that are not easy places in which to learn. It is pretty clear that when the average school building is 40 years old, it is going to cost real money to fix them. Conservative estimates suggest it would cost $270 billion to maintain and repair them.

With the slowly recovering economy, we know that too many school districts have been forced to cut budgets and lay off teachers, let alone make improvements to our schools. I introduced Fix America Schools Today, the FAST Act, that would help localities make critical repairs to schools. It will support more than 12,000 jobs in Ohio.

I introduced the bill a few weeks ago. Soon after, the President was at Fort Hayes Public School in Columbus, OH, in the central part of my State. The President talked about the FAST Act, about how we should do school renovation as part of his jobs bill.

I would plead with my colleagues on the Republican side of the aisle—the same colleagues who worked with me on a bipartisan basis to pass the biggest bipartisan jobs bill, the China currency bill of this session—to work on this bill. At least, if they will not let us debate the jobs bill as a whole, let us pass the Fix America's Schools Today, the FAST Act, it will make the kinds of repairs—it will create jobs because workers will rebuild these schools and renovate them. It will create jobs in manufacturing as companies all over my State that make steel, plastic, cement, and brick will go to work to create and make these products, and it will lay the groundwork for prosperity.

We know in the 1950s, 1960s, 1970s, and 1980s, the United States of America built infrastructure the likes of which the world had never seen. That is why we had that kind of prosperity in this country. When the Presiding Officer and I were in high school and college and were young adults, we had that kind of prosperity brought about because we had the best infrastructure in the world. We have to rebuild and modernize the infrastructure to create opportunities for young people. We need to pass the FAST Act. It will make such a difference for our country in the years ahead.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mrs. MCCASKILL). Without objection, it is so ordered.

INTERNATIONAL TRADE

Ms. LANDRIEU. Madam President, I come to the floor today to speak on an issue that is of great importance to my home State of Louisiana: international trade. From its founding, Louisiana has been a hub for trade and entrepreneurship. In fact, the French explorer Bienville chose the site for the city of New Orleans in 1718 because, at a crescent bend in the Mississippi River, it is close to the Gulf of Mexico but safe from tidal waves. President Thomas Jefferson later made the Louisiana Purchase in 1813 to increase opportunities for U.S. traders and protect U.S. access to the Port of New Orleans. Ever since then, Louisiana and the Mississippi River have been the gateway to the economic heartland of the United States. For example, 60 percent of all grain exported from the United States is shipped via the Mississippi River. It is also a little known fact that the Port of New Orleans imports more steel than any other port in the country. This crucial port sees more goods leave its docks each day than almost anywhere in the Nation. Studies have found that the Port of New Orleans pumps $882 million into the Louisiana economy and helps sustain more than 160,000 jobs. The reality is Louisiana's ports are America's ports and the gateway to the world. There are 31 ports in the State of Louisiana and some of the busiest in the world in terms of gross tonnage. Five of the 31 ports in Louisiana, from the Gulf of Mexico to Baton Rouge, are deepwater ports. We are home to 5 of the country's top 13 ports, exporting more than $40 billion in goods last year alone and making Louisiana the fourth largest exporting State in the country. Louisiana sends everything from sugar to oil to more than 200 countries worldwide. Port Fourchon supports infrastructure that provides 18 percent of the Nation's entire oil supply. The Port of South Louisiana exports more than any other port in the country. When combined with the nearby Port of New Orleans, these ports form the fourth largest port system in terms of volume handled. Today New Orleans hosts an Australian Trade Office, a Mexican Consulate, a French Consulate, and countless honorary consuls. For all of these reasons, I do all I can here in the U.S. Senate to promote exports from Louisiana. These exports mean jobs in my State—from the suppliers, to the manufacturers, to the shipping companies, to the port workers.

I support the trade promotion agreements with Colombia, South Korea, and Panama. This is because I believe that these agreements are fair and present excellent opportunities for Louisiana companies. Since coming to the Senate in 1996, I have been a strong supporter of free trade. However, my first priority is our local businesses and workers in Louisiana. For example, I voted against the Central American Trade Promotion Agreement in 2005. I voted against this agreement because I did not feel that the agreement was fair. Free trade requires that all players operate on as level a playing field as possible—accountable to the same labor laws, environmental standards, and governmental intervention.

A main reason that I am able to strongly support these three agreements is that the Congress just passed the extension of the Trade Adjustment Assistance, TAA, Program. Congress created TAA in 1962 to help workers and firms adjust to dislocation that may be caused by increased imports. The program assists workers who lose their jobs or whose hours of work and wages are reduced as a result of imports. In 2010 alone, 12 TAA petitions were certified in Louisiana, providing almost $5 million in Federal funds, and most importantly, assisting 1,309 workers.

An example of a key business that benefitted from TAA is the Georgia Pacific plywood plant in Logansport. Georgia Pacific was the largest employer in Logansport and in October 2007 it announced that it was immediately closing its local plywood operation, putting 280 employees out of work. The Department of Labor determined an increase in imports contributed to the plant closure, making these workers eligible for TAA benefits. Furthermore, in November 2008, over 500 workers in Bastrop were laid off because of the closure of the International Paper Mill. I worked closely with U.S. Representative RODNEY ALEXANDER to secure TAA assistance for these workers in 2009. These workers in Logansport and Bastrop are but two examples of how important this program has been in assisting workers in Louisiana impacted by increased imports.

In terms of the pending trade promotion agreements, in my view, Colombia presents the most economic opportunities for Louisiana businesses. Colombia is a fast-growing market of 45 million consumers. This makes it the second largest country in Latin America and the third largest economy in the region. It purchases more U.S. products than Russia, Spain, Indonesia, or Thailand. The United States is also Colombia's largest trading partner in terms of exports and imports. Two-way trade between the countries accounted for more than $28 billion.

While these figures sound promising for U.S. exports to Colombia, they do not tell the whole story. In order to keep competing for Colombia's consumers, we must view trade with Colombia as a marathon, not a sprint. The United States is Colombia's top supplier today but China is closing fast on our heels. China has increased its share of the Colombian market sixfold in the last 10 years. Imports from China increased 47 percent in 2010, compared to the previous year. At the current pace, China will displace the United States as Colombia's main trading partner in less than a decade. For my part, I do not intend to concede the race before it is won. Colombia has long been one our closest allies in South America and is making great strides in curbing decades of violence caused by drug cartels, paramilitaries. To concede the Colombian market to China after years of cooperation on economic and strategic interests is unwise. It is particularly unwise and shortsighted as Colombia is an emerging market close to our shores. Colombia has also recently signed agreements with Canada, the European Union, and South Korea that present challenges to U.S. companies competing in the country. Other countries are not standing still on trade opportunities with Colombia and neither should the United States.

As of 2010, Colombia was Louisiana's 12th largest export market with $727 million in exported goods. This is down from highs of $856 million in 2007 and $1.5 billion in 2008. The decline in exports is attributed in large measure to a reduction in U.S. agricultural market share in Colombia since 2008. U.S. farmers saw their market share decrease from 46 percent in 2008 to 21 percent in 2010. The reduction stems in part from Colombian agreements with other countries, such as Argentina and Brazil as well as tariffs on U.S. goods as high as 20 percent. Tariffs result from the absence of a bilateral trade promotion agreement, TPA, between the United States and Colombia. That is a major reason I believe the Colombian Trade Promotion Agreement can benefit Louisiana.

According to the U.S. Department of Agriculture, Louisiana is currently the third largest exporter of rice in the United States with $136 million in total rice exports. However, U.S. rice exports to Colombia currently face tariff rates from 5 to 20 percent. Under the TPA, Colombia will establish a 79,000-ton, zero-duty rice tariff rate quota, TRQ, that will grow 4.5 percent annually for 19 years. Louisiana rice exports to Colombia could increase by more than $3.2 million per year. Funds from companies bidding on rights to export rice to Colombia duty free will go to research boards in the six biggest rice production States, including Louisiana. This is estimated to be as much as $10 to 12 million per year.

As with other agricultural products, since 2008, U.S. soybean exports were down significantly to Colombia as the United States lost market share in the country and tariffs ran as high as 20 percent. In 2010, the United States exported $103 million of soybeans and soybean products. This was a 21-percent drop in U.S. soybean exports from 2009 to 2010 and followed a 51-percent drop from 2008 to 2009. Under the TPA, Colombia will immediately eliminate duties on soybean imports from the United States. Colombia will also establish a 31,200-ton, zero-duty rice tariff rate quota for crude soybean oil that will grow 4.5 percent annually. Louisiana soybean exports to Colombia could increase by more than $600,000 per year. Lastly, the country will also phase out its 24-percent tariff for refined soybean oil over 5 years.

Furthermore, in 2010, the United States exported $100 million of cotton to Colombia. Under the TPA, Colombia will immediately eliminate duties on cotton. Louisiana cotton exports to Colombia could increase by more than $710,000 per year. This provides duty-free opportunities for Louisiana cotton producers to gain a new partner to spin, cut, and sew our Louisiana cotton for textiles instead of exporting raw cotton to China. This could provide a double benefit to the U.S. economy as our cotton exports to Colombia are used in many apparel items that Colombia then exports back to the U.S. market.

Outside of agricultural products, there are also benefits to other industries in Louisiana from increased opportunities in Colombia. For example, according to the U.S. International Trade Commission, the TPA will result in an annual increase of 23 percent, to $1.9 million, in U.S. exports in chemical, rubber, and plastic goods to Colombia. Why is this important to Louisiana? As you may know, Louisiana hosts 90 major chemical plants and 300 petrochemical manufacturers that directly employ 27,000 skilled workers. The State supplies infrastructure required for world-class manufacturing combined with the necessary service providers—more than 1,000 Louisiana service companies support the petrochemical industry. From 2008 to 2010, 15 percent of the $937 million in goods exported to Colombia consisted of chemical products. Colombian tariffs on Louisiana chemical exports range as high as 20 percent. Under the TPA, 86 percent of U.S. chemical exports would immediately receive duty-free treatment. This will significantly help Louisiana chemical companies looking to export to Colombia.

Next, under the TPA, Colombia will immediately eliminate its tariffs on 75 percent of U.S. plastics exports. An example of how this benefits one Louisiana product is that the State exported almost $6 million worth of polyethylene, a plastic widely used in packaging materials, to Colombia in 2010. This product would see almost $900,000 in duty savings.

Louisiana companies in the oil and gas machinery and services industries also stand to benefit greatly from the TPA. According to the ''Oil and Gas Journal,'' Colombia has 1.9 billion barrels of proven crude oil reserves in 2011,

the fifth largest in South America. These reserves are expected to increase with the exploration of several new blocks that were auctioned in 2010. The Energy Information Administration projects that Colombian oil production will surpass the 1 million barrel per day mark during the third quarter of 2012. Also, as of 2010, there were natural gas reserves in Colombia of 4 trillion cubic feet. Because of the huge potential of these reserves, the Colombian Government has made oil and gas exploration and production a top priority.

Currently, Louisiana companies exporting oilfield equipment to Colombia face tariffs of 10 percent or higher. They also face growing competition, with 11 percent of the market in 2009 from Chinese companies at lower costs, but lower quality and reliability in relation to U.S. products. Under the TPA, Colombia will immediately eliminate tariffs on 52 percent of U.S. energy equipment exports. Tariffs on an additional 6 percent of exports would be eliminated after 5 years and the remaining 42 percent would be eliminated after 10 years. This allows our highly skilled oilfield companies in Louisiana to get more of their quality products into the Colombian market at lower prices.

I also understand that the U.S.-Colombia Trade Promotion Agreement includes strong protections for workers rights. These protections were strengthened further this year by a labor action plan agreement between President Obama and President Santos. The concerns this plan addresses are: violence against Colombian labor union members, inadequate efforts to bring murder suspects to justice, and insufficient protection of workers rights in Colombia. The action plan included major steps that the Colombian Government had to undertake before the trade promotion agreement would enter in force. Key to these reforms included the creation of three ministries: Labor, Justice and Housing. The new Labor Ministry will be responsible for implementing programs to protect labor rights. I also believe that the Colombian Government's efforts to turn the tide on the long-running terrorist insurgency will promote long-term stability in Colombia and the region. This is because a great deal of the violence seen in Colombia over the past decades was fueled by drug money funneled to paramilitary groups and criminal organizations. As the Colombian Government has recovered more control over its territory and demobilizing these groups, it is seeing increased security, social progress and economic growth.

I have presented facts and figures, but let me give you an example of a Louisiana company that has already had success in Colombia. Textron Marine and Land Systems, based in New Orleans, manufactures armored personnel carriers and armored security vehicles. They are four-wheeled vehicles that have multiple layers of armor to defend against small arms fire, land mines, and explosive devices. Both of these vehicles have an impressive track record around the world and are vital to the U.S. and coalition forces in Iraq and Afghanistan. Textron builds these vehicles for the U.S. Army at their plants in eastern New Orleans and Slidell.

With the help of the U.S. Foreign Commercial Service, Textron was able to secure a $45.6 million contract in 2009 to provide 39 armored personnel carriers for the Colombian Army. These vehicles were delivered to the Colombian Army and see daily service throughout the country protecting their soldiers. Not only did these exports help promote peace and security in Colombia, but they allowed Textron to maintain its workforce and continue the vehicle line into the future. Textron was so successful with this first order that Colombia has requested another 38 armored security vehicles. The combined value of both contracts is more than $80 million. In addition to these vehicles, Textron is working closely with the Colombian Government to create a Center of Excellence for vehicle maintenance in the country. This center would develop maintenance and supply systems to cover all the Colombian armored security vehicles with the potential to cover all other vehicle fleets owned by the government. The company also helped lead a 2009 trade mission of 12 Louisiana companies to Colombia. I applaud Textron, as well as our local U.S. Foreign Commercial Service staff in New Orleans, for promoting these exports in Colombia. Textron is a great example of a Louisiana company that has not just succeeded in tapping this market—they continue to succeed in Colombia. Under the trade promotion agreement, I am optimistic that more Louisiana companies will be able to follow in Textron's successful footsteps.

In regards to the South Korea Trade Promotion Agreement, this is another promising, high-growth market for U.S. companies. Korea has an economy at close to $1 trillion and is the eighth largest trading partner of the United States. Korea's economy grew 5.8 percent in the second quarter of 2010 and the International Monetary Fund expects it to grow by 6.1 percent in 2010. There also is currently a trade deficit between Korea—$11 billion in 2009. The trade promotion agreement is estimated by the International Trade Commission to improve the trade balance with Korea by $3.3 billion to $4 billion. Lastly, I am aware that as in Colombia, the European Union, EU, signed a trade promotion agreement with South Korea on July 1, 2011. This agreement eliminated 98.7 percent of the Korean tariffs on EU products. U.S. companies are now at a sharp competitive disadvantage in this growing market. We used to be Korea's top trading partner but now have taken a backseat to China, Japan, and the EU. Over the last decade, China's market share increased in Korea from 7 percent to 18 percent alone while U.S. market share flipped from 21 percent to 9 percent. So this is another instance where inaction on a bilateral agreement could cost the United States dearly on Korean market share, missed export opportunities, and most importantly, lost job opportunities here at home.

Overall, I note that Korea bought $3.9 billion in agricultural products in 2009, making Korea our fifth largest agricultural export destination. This is despite the fact that Korea's tariffs on imported agricultural products average 54 percent, compared to the average 9 percent levied by the United States on the same type of imports. According to the American Farm Bureau Federation, exports by American's ranchers and farmers to Korea will increase by almost $1.8 billion every year under the agreement. This is attributed to increases in exports of grain, oilseed, fiber, fruit, vegetable, and livestock products.

Louisiana farmers stand to benefit greatly from these reductions in agricultural tariffs in Korea. For example, as the agreement eliminates tariffs and other barriers on most agricultural products, this increases export opportunities for Louisiana cotton, beef and soybeans. I have heard from my soybean farmers in Louisiana that they have tried in the past to develop a market in Korea, but have had difficulty. They are optimistic that the agreement will help efforts to establish a market in Korea—particularly with getting soybean products into Korea's livestock industry.

One company that should benefit from the Korea Trade Promotion Agreement is Pontchartrain Blue Crab. As you know, Korea is the fifth largest market for U.S. fish and fish product exports. Gary Bauer, owner of Pontchartrain Blue Crab, PBC, has been in the blue crab fishery for nearly 29 years. He began working in the industry as a commercial fisherman in 1979, where he worked part time to support his family. Mr. Bauer then established a seafood dock to service fishermen from Lake Pontchartrain. Pontchartrain Blue Crab has grown from 4 employees to now more than 70 employees.

In 2002, PBC was able to create a blue crab processing plant located in Slidell, LA, which then allowed the company to pasteurize crab into exportable containers. Like other businesses in south Louisiana, however, it had to rebuild its facilities following Hurricane Katrina. With assistance from the Small Business Administration, SBA, Mr. Bauer and his company were able to export into the Korean market. Their success in Korea has encouraged PBC to also look into expanding into the European market in the near future. So although PBC is already in the Korean market, reductions in Korean tariffs offer new opportunities for the company.

There are also benefits to non-agricultural businesses from this trade

promotion agreement. One area that will greatly assist Louisiana companies is reductions on tariffs on chemical exports. Currently chemical product exports accounted for an average of $360 million per year of Louisiana's exports to Korea between the years of 2008 to 2010. However, Korean chemical tariffs average 6 percent but can run as high as 50 percent. As such, U.S. exporters of chemicals and related products, including chemicals, organic chemicals, plastics, and fertilizers will see significant reductions in tariffs on their exports to Korea. First, 50 percent of U.S. chemical exports will receive duty-free treatment immediately after the agreement enters into force. The remaining tariffs will be phased out over 10 years. Tariffs on such products as silicon and plastics will also be eliminated immediately.

The third trade promotion agreement is with Panama. It is my understanding that Panama is already a great market for U.S. exports, even with an uneven playing field. U.S. products entering Panama are subject to tariffs, but most products from Panama receive duty-free treatment when entering the United States. The trade promotion agreement will encourage further expansion and diversification of U.S. exports in the country. With a major expansion of the Panama Canal, a huge subway project in Panama City and development of the world's fifth largest copper mine underway, the opportunities ahead for U.S. companies in Panama are significant. By entering into a bilateral agreement with Panama, the United States also ensures that our companies can compete for contracts on the $5.25 billion Panama Canal expansion project. EU and Canadian companies currently have the inside track on these contracts because of their bilateral agreements with Panama.

In terms of Louisiana, agricultural exports to Panama stand to benefit greatly from the trade promotion agreeement. While the benefits for the Louisiana rice industry as not as great as with Colombia, duties on U.S. rice exports will be phased out over 20 years. There will also be two separate tariff rate quotas established—one for rough rice and one for milled rice. The milled rice TRQ in year one of the agreement is 4,240 metric tons and will increase 6 percent each year before becoming duty free in year 20. This TRQ qill allow for improved access for Louisiana milled rice starting in the agreement's first year of implementation. As I have indicated before, in 2010 Louisiana exported $427 million in soybeans and soybean products abroad. The Louisiana soybean industry will also see Panama lock in its current zero-tariff treatment for soybeans and soybean meal after the agreement is implemented. Panama is a smaller market than Korea or Colombia but the country's geographic proximity to Louisiana presents unique opportunities for our companies.

With that in mind, let me give you an example of a Louisiana company currently working in Panama. Baker Sales Inc. of Slidell, LA, is a small business that distributes imported steel tubing and fencing. When construction slumped during the recession, so did demand for steel products. They saw their sales drop 20 percent last year when oil/gas contractors pulled orders after the Deepwater Horizon disaster. For 30 years, Baker Sales has imported steel products and sold them to customers largely within a 200-mile radius of Slidell. The company has always wanted to export—particularly recently as they identified opportunities in Panama, where South American immigrants are moving in, necessitating new housing developments and high-rises.

President Robert Baker paid $800 for U.S. Commercial Service's Gold Key Service last March. He met with a dozen potential clients in Panama over 2 days and one developer he met is interested in ordering $100,000 aluminum fencing. Thanks to the higher loan limits authorized by the Small Business Jobs Act passed by Congress last year, Baker Sales Inc. received a $3 million U.S. Small Business Administration 7(a) loan that will help them expand their business by facilitating export transactions with buyers in Panama. They immediately hired two more employees because of the loan. As sales to Panama increase—and potential sales to South Korea materialize—the company expects to hire more employees.

In closing, as chair of the U.S. Senate Committee on Small Business and Entrepreneurship, I am aware that cash registers are not ringing like they used to for our small businesses around the country. For this reason, exporting has become a practical solution for small businesses looking to survive and grow. Small businesses across the country have not only used exporting to weather the economic storm, they have proven that what helps our entrepreneurs helps our entire economy. According to the U.S. Department of Commerce, U.S. exports supported an estimated 9.2 million jobs in 2010—up from 8.7 million in 2009. Furthermore, for every billion dollars of exports, over 5,000 jobs are supported. As our country digs out of the economic crisis, helping more small businesses export for the first time and current exporters reach new countries, should be a top priority. I believe that small businesses can lead us out of this recession by creating new and higher paying jobs and lessening this trade deficit. These three trade promotion agreements will further promote small business exports and help our companies compete in these growing markets.

RECOGNIZING MARTIN'S POINT HEALTH CARE

Ms. COLLINS. Madam President, I rise today to commend Martin's Point Health Care in Portland, ME, for its outstanding accomplishment of scoring two five-star ratings from the Centers for Medicare & Medicaid Services, CMS, for its Medicare Advantage health plans.

This is truly an accomplishment as a five-star designation is quite a rarity. With fewer than ten plans nationwide receiving this top rating, Martin's Point Medicare Advantage plans are among a very select group. They are also the only Maine health care organization to receive this distinction for 2012.

The CMS five-star rating system was developed to help demonstrate the value of Medicare plans and to help ensure that they meet specific quality standards. It provides the nation's nearly 48 million Medicare beneficiaries with a tool to compare the quality of care and customer service that Medicare health and drug plans offer. The rating system considers several quality measures, such as success in providing preventive services like screenings and vaccines; chronic illness management; and ratings of plan responsiveness, care, and customer service.

Martin's Point is a not-for-profit health care organization committed to providing the best possible health care experience to its patients and members. The organization is comprised of a multispecialty medical group with nine primary care health centers in Maine and New Hampshire. Martin's Point also administers three health plans: a Medicare Advantage plan in Maine, the U.S. Family Health Plan for military families and retirees throughout New England, and a new innovative program called MaineSense for small to medium employers in Maine. Its Medicare Advantage plans cover more than 12,500 Medicare beneficiaries across the State of Maine.

Martin's Point began in the early 1960s in the Camden/Rockport, ME, area when Dr. Niles Perkins obtained federal funding under the Great Society Act of Congress to provide health care services to uninsured or underinsured indigent individuals. These individuals, many of them fisherman and employees of a local fish processing plant, didn't qualify for Medicare, but also couldn't afford health insurance on their own. With the Federal funding obtained, Dr. Niles formed Penobscot Bay Medical Association.

Meanwhile in 1982, Dr. Johann Brower, a colleague of Dr. Perkins at Penobscot Bay Medical Associates, wrote a proposal to purchase some of the land and facilities at Martin's Point from the U.S. Government. Despite the fact that several other organizations, including Mercy, applied for the grant, Dr. Brower's application was the only one submitted on time and was accepted. The purchase price was $1.00, under the conditions that Penobscot Bay Medical Associates would operate the facility as a not-for-profit for 30 years.

Penobscot Bay Medical Associates, doing business as Martin's Point, became a designated uniform service treatment facility. Maine military retirees were able to come from all over the State to the facility and have their care paid for by CHAMPUS. Access to primary care—family medicine, internal medicine and pediatrics—along with on-site laboratory, dental, optometry, pharmacy and radiology was made available to all patients utilizing the facility.

In 1996, under the U.S. Family Health Plan, Martin's Point was authorized as a TRICARE prime provider and awarded their first multimillion-dollar, multiyear contract with the Department of Defense. This all happened under the direction of Dr. David Howes, who became the president and CEO of Martin's Point in 1996.

In the 2000s, Martin's Point expanded their USHFP membership—they now have over 35,000 members in Maine, New Hampshire, Vermont, New York, and the northern tier of Pennsylvania

Then, in 2006, they launched their Generations Advantage plans. These are Medicare Advantage options for seniors and persons with disabilities in six Maine counties. They have since expanded so that in 2010, their Medicare Advantage plans are offered in all 16 counties in Maine. They serve over 12,500 members.

In 2008, Martin's Point became one of the first 40 organizations to become a prototyping organization in the Institute for Healthcare Improvements Triple Aim initiative. In 2009, they affiliated with Bowdoin Medical Group, a large group of physicians with five health centers in southern and coastal Maine communities. This acquisition essentially doubled Martin's Point provider base and patient count—bringing their total number of health centers up to 9.

In November 2010, Martin's Point opened the doors of their new, state-of-the-art primary care facility on the Veranda St. peninsula at Martin's Point. This flagship facility, designed with input from providers, patients and other clinical employees, is a fitting tribute to the patient-focused philosophy of Martin's Point and helps them to realize their unending commitment to providing a better health care experience for their patients.

Today, Martin's Point's Medicare Advantage plans are in the top 3 percent nationally based on quality. I am delighted to recognize Martin's Point for this accomplishment, and I wish them all the best in the coming years.

NATIONAL TRADEMARK EXPO

Mr. WARNER. Madam President, I would like to recognize and express my support of the U.S. Patent and Trademark Office's, USPTO, National Trademark Expo.

Trademarks are characteristics of a good or service such as a name, symbol, or sound that identify and distinguish one party's goods and services from those of others and help many of us distinguish between authentic and counterfeit merchandise. On any given day, an individual may be exposed to as many as 1,500 trademarks.

Trademarks are useful tools against counterfeit goods, which cost the United States billions of dollars and many jobs each year, as well as undermine consumer confidence in brand integrity when purchasers encounter imitation goods of lesser quality. Through the USPTO's efficient approval process and registration of trademarks, the agency assists businesses in protecting their investments, promoting goods and services, and safeguarding consumers against confusion and deception in the marketplace.

This year's National Trademark Expo will be held on Friday, October 14, from 10 a.m. to 6 p.m., and Saturday, October 15, from 10 a.m. to 4 p.m., at the USPTO headquarters in Alexandria, VA. The Expo will feature educational seminars, children's workshops, story time, guided tours and presentations from some of America's leading large corporations, small businesses, governmental agencies and nonprofit corporations.

I hope my colleagues will join me in recognizing the USPTO for its continued efforts to educate the public on the important role of trademarks, as well as the benefits of the National Trademark Expo.

ADDITIONAL STATEMENTS

TRIBUTE TO MAJOR GENERAL ALFRED FLOWERS

• Mr. COCHRAN. Madam President, I take this opportunity to congratulate MG Alfred K. Flowers, U.S. Air Force, for his dedicated service to our country. General Flowers has the distinct honor of being the longest serving member in the history of the U.S. Air Force, and he is the longest serving active duty member in the Department of Defense.

In his present assignment, General Flowers serves as the Deputy Assistant Secretary for Budget and is responsible for planning and directing the Air Force's budget. Over the last 2 years in this role, he led a team of over 160 military, civilian and contractor professionals charged on behalf of the Secretary and Chief of Staff of the Air Force to present to the Congress the funding of all Air Force programs. It is his responsibility to organize and present to the Congress annual appropriations submissions as well as various overseas contingency operations requests. His leadership and his keen understanding of the Congress has served the Air Force and the security interests of our country very well during appearances of the senior leadership of the Air Force before committees of the House and Senate. General Flowers' vision, inspirational leadership, and unselfish devotion to duty have resulted in important improvements in the resourcing of and strategic direction of Air Force's missions.

General Flowers began his career as an enlisted supply warehouseman in August 1965 at Grand Forks Air Force Base. He then served as an air transportation specialist for 4 years beginning in September 1967. In 1971, General Flowers became an accounting specialist for the Air Force and served 7 years in that role. After his selection to the grade of master sergeant, General Flowers was commissioned, following graduation from Officer Training School as a distinguished graduate in December 1978. In his first three assignments as a budget officer, he served at the squadron, major command and air staff levels. In 1990, he was assigned as Chief of the Budget Operations Division for Air Combat Command, where he later served as the chief of budget.

The general has served on the Joint Staff as a defense resource manager, and in 1999 was the director of budget programs for the Department of the Air Force. General Flowers also served as the Air Education and Training Command comptroller. His other assignments include director, Center for Force Structure, Requirements, Resources and Strategic Assessments at Headquarters U.S. Special Operations Command, and commander, Air Force Officer Accession and Training Schools. Prior to his current assignment, the general was commander, 2nd Air Force, at Keesler Air Force Base, MS.

Of distinct importance and significance, as the comptroller for Headquarters Air Education and Training Command, he budgeted and managed funding of the largest flying hour program in the Air Force, involving 542,000 hours annually and 38 percent of the Air Force's total flying hour program and spanning 21 major weapons systems. As director, Center for Force Structure, Requirements and Strategic Assessments, U.S. Special Operations Command, he spearheaded the largest increase in resources and force structure for Special Operations Forces in the history of U.S. Special Operations Command. His insightful vision and tireless dedication were instrumental in garnering 13,000 additional personnel and $11 billion in additional funding to enhance and expand Special Operations Forces to successfully execute the Global War on Terrorism.

As the 2nd Air Force Commander, General Flowers led the largest transformation of basic military training in 50 years, expanding training from 6.5 to 8.5 weeks. This modernization was vital to providing realistic expeditionary combat skills training to prepare enlisted airmen for their deployments. His support of combatant commanders included providing over 14,000 joint expeditionary tasking airmen to the area of responsibility and reshaped the role of the Air Force in Operations Iraqi Freedom and Enduring Freedom.

Following these assignments, General Flowers was well prepared to assume his current position as the director of the Air Force budget. Under his direction, this organization developed, established, and cultivated professional relationships within the air staff, the Office of the Secretary of Defense, the Joint Staff, the Army, the Navy, the Marine Corps, and with Members and staff of the U.S. Congress, significantly improving the record of approval of resources necessary to support key warfighter programs. He provided critical oversight and direction for over 30 Air Force appropriations to accurately deliver a nearly $800 billion Future Years' Defense Program budget to the Office of the Secretary of Defense on time and on target. He has successfully completed annual budget submissions of close to $170 billion for fiscal years 2011, 2012, and 2013 and justified them to the Secretary of Defense, the Office of Management and Budget, the Congressional Defense Appropriations and Authorization Subcommittees and the Congressional Budget Office. General Flowers' leadership, sound judgment, and wise counsel will be sorely missed by all.

I am pleased to commend General Flowers for his historic and outstanding service to our country, which is a great example of distinguished military service. On the occasion of his upcoming retirement, I wish General Flowers and his family all the very best in the years to come.●

100TH ANNIVERSARY OF WASHINGTON HIGH SCHOOL

● Mr. KOHL. Madam President, today I recognize and congratulate Washington High School on the occasion of its 100th anniversary. As a proud alumnus, I take these moments to reflect on the purple and gold's story, success and accomplishments that have endured these past 100 years.

Located in the Sherman Park Neighborhood of Milwaukee, WI, Washington High School, with its never-ending commitment to excellence, has welcomed students through its doors and ushered them out to embrace bright futures for ten decades. Throughout its evolution and changes, Washington High School has always provided its students with a first class education, instilling values and providing skills that help students pursue employment, higher education and individual dreams.

Well-known for its focus on technology, the innovative high school created the first Career Specialty Program in 1976 focusing on computers and earning the school its reputation as ''the computer school.'' It has been nationally recognized for its curriculum which builds knowledge and critical thinking skills through the use of technology.

The school proudly acclaims each graduating class including notable alumni who achieved excellence in business, attained the office of Governor of Wisconsin, served at the highest level of our military, became Commissioner of Baseball, reached stardom on Broadway and in Hollywood, joined the ranks of professional athletes, and even one who got elected U.S. Senator; each and every graduate a remarkable person who graduated from a remarkable place, Washington High School.

Wisconsin's strong tradition of excellence in education has been shaped by Washington High School's rich, long history filled with a century of proud, hopeful students, and extremely dedicated faculty and staff. As alumni from varied graduating classes and walks of life, we gather as one body to celebrate collectively the spirit of our high school years, and the achievements, made individually and collectively by a century of alumni.

As all Washington High School alumni have done before, we cheer for the purple and gold, the Purgolders and everything this fine institution represents.

With a warm welcome to all who cherish and gather to remember, I proudly congratulate Washington High School, my alma mater, on its 100th anniversary, and my sincere best wishes for 100 more exceptional years.●

MESSAGES FROM THE HOUSE

At 12:30 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2433. An act to amend title 38, United States Code, to make certain improvements in the laws relating to the employment and training of veterans, and for other purposes.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 2944) to provide for the continued performance of the functions of the United States Parole Commission, and for other purposes.

ENROLLED BILLS SIGNED

At 1:38 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 2832. An act to extend the Generalized System of Preferences, and for other purposes.

H.R. 2944. An act to provide for the continued performance of the functions of the United States Parole Commission, and for other purposes.

H.R. 3078. An act to implement the United States-Colombia Trade Promotion Agreement.

H.R. 3079. An act to implement the United States-Panama Trade Promotion Agreement.

H.R. 3080. An act to implement the United States-Korea Free Trade Agreement.

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

MEASURES REFERRED

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

H.R. 2433. An act to amend title 38, United States Code, to make certain improvements in the laws relating to the employment and training of veterans, and for other purposes; to the Committee on Veterans' Affairs.

PETITIONS AND MEMORIALS

The following petition or memorial was laid before the Senate and was referred or ordered to lie on the table as indicated:

POM–63. A concurrent resolution adopted by the Legislature of the State of Utah expressing support for an amendment to the United States Constitution to balance the federal budget and restrict tax increases; to the Committee on the Judiciary.

CONCURRENT RESOLUTION NO. 201

Whereas, the Legislature of the state of Utah acknowledges that the United States of America is facing a crippling debt crisis because of unrestrained spending and irresponsible fiscal policies;

Whereas, a majority of sitting United States Senators—including all 47 Republicans, 10 Democrats, and one Independent—have specifically expressed support for a requirement to balance the federal budget; and

Whereas, the 112th Congress is currently considering the following Constitutional Amendment, Senate Joint Resolution 10, which was introduced on March 31, 2011, by United States Senators Orrin Hatch and Mike Lee, both from Utah:

''Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States:

Article—

Section 1. Total outlays for any fiscal year shall not exceed total receipts for that fiscal year, unless two-thirds of the duly chosen and sworn Members of each House of Congress shall provide by law for a specific excess of outlays over receipts by a roll call vote.

Section 2. Total outlays for any fiscal year shall not exceed 18 percent of the gross domestic product of the United States for the calendar year ending before the beginning of such fiscal year, unless two-thirds of the duly chosen and sworn Members of each House of Congress shall provide by law for a specific amount in excess of such 18 percent by a roll call vote.

Section 3. Prior to each fiscal year, the President shall transmit to the Congress a proposed budget for the United States Government for that fiscal year in which—

(1) total outlays do not exceed total receipts; and

(2) total outlays do not exceed 18 percent of the gross domestic product of the United States for the calendar year ending before the beginning of such fiscal year.

Section 4. Any bill that imposes a new tax or increases the statutory rate of any tax or the aggregate amount of revenue may pass only by a two-thirds majority of the duly chosen and sworn Members of each House of Congress by a roll call vote. For the purpose of determining any increase in revenue under this section, there shall be excluded any increase resulting from the lowering of the statutory rate of any tax.

Section 5. The limit on the debt of the United States shall not be increased, unless three-fifths of the duly chosen and sworn Members of each House of Congress shall provide for such an increase by a roll call vote.

Section 6. The Congress may waive the provisions of sections 1, 2, 3, and 5 of this article for any fiscal year in which a declaration of war against a nation-state is in effect and in which a majority of the duly chosen and sworn Members of each House of Congress shall provide for a specific excess by a roll call vote.

Section 7. The Congress may waive the provisions of sections 1, 2, 3, and 5 of this article in any fiscal year in which the United States is engaged in a military conflict that causes an imminent and serious military threat to national security and is so declared by three-fifths of the duly chosen and sworn Members of each House of Congress by a roll call vote. Such suspension must identify and be limited to the specific excess of outlays for that fiscal year made necessary by the identified military conflict.

Section 8. No court of the United States or of any State shall order any increase in revenue to enforce this article.

Section 9. Total receipts shall include all receipts of the United States Government except those derived from borrowing or from penalties or fines. Total outlays shall include all outlays of the United States Government except those for repayment of debt principal.

Section 10. The Congress shall have power to enforce and implement this article by appropriate legislation, which may rely on estimates of outlays, receipts, and gross domestic product.

Section 11. This article shall take effect beginning with the fifth fiscal year beginning after its ratification.'': Now, therefore, be it

Resolved, That the Legislature of the state of Utah, the Governor concurring therein, pursuant to Article V of the United States Constitution, would hereby support a Balanced Budget Amendment to the Constitution of the United States proposed by resolution of the 112th Congress of the United States in Washington, D.C., described herein, on March 31, 2011. Be it further

Resolved, That a copy of this resolution be sent to the legislatures of all 49 other states, all members of Utah's congressional delegation, the majority and minority leaders in the United States Senate and House of Representatives, the Vice President of the United States, and the Speaker of the United States House of Representatives, with a request that it be printed in the Congressional Record.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LEAHY, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 1301. A bill to authorize appropriations for fiscal years 2012 to 2015 for the Trafficking Victims Protection Act of 2000, to enhance measures to combat trafficking in person, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of nominations were submitted:

By Mr. LEAHY for the Committee on the Judiciary.

Adalberto Jose Jordan, of Florida, to be United States Circuit Judge for the Eleventh Circuit.

John M. Gerrard, of Nebraska, to be United States District Judge for the District of Nebraska.

Mary Elizabeth Phillips, of Missouri, to be United States District Judge for the Western District of Missouri.

Thomas Owen Rice, of Washington, to be United States District Judge for the Eastern District of Washington.

David Nuffer, of Utah, to be United States District Judge for the District of Utah.

Steven R. Frank, of Pennsylvania, to be United States Marshal for the Western District of Pennsylvania for the term of four years.

Martin J. Pane, of Pennsylvania, to be United States Marshal for the Middle District of Pennsylvania for the term of four years.

David Blake Webb, of Pennsylvania, to be United States Marshal for the Eastern District of Pennsylvania for the term of four years.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Ms. KLOBUCHAR (for herself, Mr. BURR, and Mr. BENNET):

S. 1700. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to device review determinations and conflicts of interest, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Ms. SNOWE (for herself, Mr. NELSON of Florida, Mr. BEGICH, Mr. ROCKEFELLER, Mr. WHITEHOUSE, Mrs. GILLIBRAND, and Mr. CARDIN):

S. 1701. A bill to amend the Harmful Algal Blooms and Hypoxia Research and Control Act of 1998, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. MORAN (for himself and Mr. ROBERTS):

S. 1702. A bill to provide that the rules of the Environmental Protection Agency entitled ''National Emission Standards for Hazardous Air Pollutants for Reciprocating Internal Combustion Engines'' have no force or effect with respect to existing stationary compression and spark ignition reciprocating internal combustion engines operated by certain persons and entities for the purpose of generating electricity or operating a water pump; to the Committee on Environment and Public Works.

By Mr. PRYOR (for himself, Mr. BINGAMAN, Ms. MURKOWSKI, Mr. BEGICH, Mr. COONS, Mr. BURR, and Mr. TESTER):

S. 1703. A bill to amend the Department of Energy Organization Act to require a Quadrennial Energy Review, and for other purposes; to the Committee on Energy and Natural Resources.

By Ms. AYOTTE (for herself and Mr. REED):

S. 1704. A bill to amend title 10, United States Code, to modify certain authorities relating to the strategic airlift aircraft force structure of the Air Force; to the Committee on Armed Services.

By Mrs. MURRAY (for herself and Ms. CANTWELL):

S. 1705. A bill to designate the Department of Veterans Affairs Medical Center in Spokane, Washington, as the ''Mann-Grandstaff Department of Veterans Affairs Medical Center''; to the Committee on Veterans' Affairs.

By Mr. LAUTENBERG (for himself, Mr. DURBIN, Mr. BLUMENTHAL, and Mr. HARKIN):

S. 1706. A bill to amend the Internal Revenue Code of 1986 to reduce tobacco smuggling, and for other purposes; to the Committee on Finance.

By Mr. BURR (for himself, Mr. WEBB, Mr. MORAN, Mr. BOOZMAN, Mr. WICKER, Ms. MURKOWSKI, Mr. BEGICH, Mr. COBURN, Mr. ENZI, Mr. THUNE, Mr. COCHRAN, and Mr. RISCH):

S. 1707. A bill to amend title 38, United States Code, to clarify the conditions under which certain persons may be treated as adjudicated mentally incompetent for certain purposes; to the Committee on Veterans' Affairs.

By Mr. REED (for himself, Mr. BROWN of Massachusetts, Mr. KERRY, and Mr. WHITEHOUSE):

S. 1708. A bill to establish the John H. Chafee Blackstone River Valley National Historical Park, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CASEY:

S. 1709. A bill to temporarily reduce interest rates for certain small business disaster loans, and for other purposes; to the Committee on Small Business and Entrepreneurship.

By Mr. BEGICH (for himself and Ms. MURKOWSKI):

S. 1710. A bill to designate the United States courthouse located at 222 West 7th Avenue, Anchorage, Alaska, as the James M. Fitzgerald United States Courthouse; to the Committee on Environment and Public Works.

By Mr. BROWN of Ohio:

S. 1711. A bill to enhance reciprocal market access for United States domestic producers in the negotiating process of bilateral, regional, and multilateral trade agreements; to the Committee on Finance.

By Mr. BROWN of Massachusetts (for himself, Mr. TESTER, Mr. BARRASSO, and Ms. COLLINS):

S. 1712. A bill to increase transparency in the payment of judgments and settlements by agencies, and for other purposes; to the Committee on the Judiciary.

By Mrs. BOXER:

S. 1713. A bill to establish a timely and expeditious process for voting on the statutory debt limit; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. LEVIN (for himself, Ms. STABENOW, Mr. BROWN of Ohio, Mr. CASEY, and Mr. KERRY):

S. Res. 293. A resolution celebrating the 10-year commemoration of the Underground Railroad Memorial, comprised of the Gateway to Freedom Monument in Detroit, Michigan, and the Tower of Freedom Monument in Windsor, Ontario, Canada; considered and agreed to.

By Mr. WICKER:

S. Con. Res. 30. A concurrent resolution supporting the goals and ideals of Spina Bifida Awareness Month; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ISAKSON:

S. Con. Res. 31. A concurrent resolution directing the Secretary of the Senate to make

a correction in the enrollment of S. 1280; considered and agreed to.

ADDITIONAL COSPONSORS

S. 35

At the request of Mr. LAUTENBERG, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 35, a bill to establish background check procedures for gun shows.

S. 84

At the request of Mr. VITTER, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 84, a bill to amend the Internal Revenue Code of 1986 to allow refunds of Federal motor fuel excise taxes on fuels used in mobile mammography vehicles.

S. 306

At the request of Mr. WEBB, the name of the Senator from New Mexico (Mr. UDALL) was added as a cosponsor of S. 306, a bill to establish the National Criminal Justice Commission.

S. 362

At the request of Mr. WHITEHOUSE, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 362, a bill to amend the Public Health Service Act to provide for a Pancreatic Cancer Initiative, and for other purposes.

S. 434

At the request of Mr. COCHRAN, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 434, a bill to improve and expand geographic literacy among kindergarten through grade 12 students in the United States by improving professional development programs for kindergarten through grade 12 teachers offered through institutions of higher education.

S. 471

At the request of Ms. STABENOW, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 471, a bill to require the Secretary of the Army to study the feasibility of the hydrological separation of the Great Lakes and Mississippi River Basins.

S. 481

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

S. 545

At the request of Mr. UDALL of Colorado, the name of the Senator from New Mexico (Mr. UDALL) was added as a cosponsor of S. 545, a bill to amend the Energy Employees Occupational Illness Compensation Program Act of 2000 to strengthen the quality control measures in place for part B lung disease claims and part E processes with independent reviews.

S. 595

At the request of Mrs. MURRAY, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 595, a bill to amend title VIII of the Elementary and Secondary Education Act of 1965 to require the Secretary of Education to complete payments under such title to local educational agencies eligible for such payments within 3 fiscal years.

S. 596

At the request of Mr. WYDEN, the name of the Senator from North Carolina (Mrs. HAGAN) was added as a cosponsor of S. 596, a bill to establish a grant program to benefit victims of sex trafficking, and for other purposes.

S. 707

At the request of Mr. DURBIN, the names of the Senator from Colorado (Mr. BENNET), the Senator from Massachusetts (Mr. KERRY), the Senator from Oregon (Mr. WYDEN) and the Senator from New Jersey (Mr. MENENDEZ) were added as cosponsors of S. 707, a bill to amend the Animal Welfare Act to provide further protection for puppies.

S. 797

At the request of Ms. MIKULSKI, the name of the Senator from New Mexico (Mr. UDALL) was added as a cosponsor of S. 797, a bill to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes.

S. 877

At the request of Mr. HATCH, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 877, a bill to prevent taxpayer-funded elective abortions by applying the longstanding policy of the Hyde amendment to the new health care law.

S. 1107

At the request of Mr. MENENDEZ, the name of the Senator from North Carolina (Mrs. HAGAN) was added as a cosponsor of S. 1107, a bill to authorize and support psoriasis and psoriatic arthritis data collection, to express the sense of the Congress to encourage and leverage public and private investment in psoriasis research with a particular focus on interdisciplinary collaborative research on the relationship between psoriasis and its comorbid conditions, and for other purposes.

S. 1241

At the request of Mr. RUBIO, the name of the Senator from Tennessee (Mr. CORKER) was added as a cosponsor of S. 1241, a bill to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions.

S. 1301

At the request of Mr. LEAHY, the names of the Senator from Florida (Mr. NELSON), the Senator from Michigan (Ms. STABENOW) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 1301, a bill to authorize appropriations for fiscal years 2012 to 2015 for the Trafficking Victims Protection Act of 2000, to enhance measures to combat trafficking in person, and for other purposes.

S. 1487

At the request of Mr. JOHNSON of Wisconsin, his name was withdrawn as a cosponsor of S. 1487, a bill to authorize the Secretary of Homeland Security, in coordination with the Secretary of State, to establish a program to issue Asia-Pacific Economic Cooperation Business Travel Cards, and for other purposes.

S. 1494

At the request of Mrs. BOXER, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 1494, a bill to reauthorize and amend the National Fish and Wildlife Foundation Establishment Act.

S. 1514

At the request of Mr. TESTER, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 1514, a bill to authorize the President to award a gold medal on behalf of the Congress to Elouise Pepion Cobell, in recognition of her outstanding and enduring contributions to American Indians, Alaska Natives, and the Nation through her tireless pursuit of justice.

S. 1541

At the request of Mr. BENNET, the names of the Senator from California (Mrs. BOXER) and the Senator from Nevada (Mr. HELLER) were added as cosponsors of S. 1541, a bill to revise the Federal charter for the Blue Star Mothers of America, Inc. to reflect a change in eligibility requirements for membership.

S. 1616

At the request of Mr. MENENDEZ, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 1616, a bill to amend the Internal Revenue Code of 1986 to exempt certain stock of real estate investment trusts from the tax on foreign investments in United States real property interests, and for other purposes.

S. 1675

At the request of Mr. MERKLEY, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1675, a bill to improve student academic achievement in science, technology, engineering, and mathematics subjects.

S. 1676

At the request of Mr. THUNE, the names of the Senator from Wyoming (Mr. ENZI), the Senator from Georgia (Mr. ISAKSON) and the Senator from Utah (Mr. LEE) were added as cosponsors of S. 1676, a bill to amend the Internal Revenue Code of 1986 to provide for taxpayers making donations with their returns of income tax to the Federal Government to pay down the public debt.

S. 1680

At the request of Mr. CONRAD, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 1680, a bill to amend title XVIII of

the Social Security Act to protect and preserve access of Medicare beneficiaries in rural areas to health care providers under the Medicare program, and for other purposes.

S. 1694

At the request of Mr. MCCAIN, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 1694, a bill to limit the use of cost-type contracts by the Department of Defense for major defense acquisition programs.

S. RES. 291

At the request of Mr. MENENDEZ, the names of the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Ohio (Mr. BROWN) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. Res. 291, a resolution recognizing the religious and historical significance of the festival of Diwali.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. SNOWE (for herself, Mr. NELSON of Florida, Mr. BEGICH, Mr. ROCKEFELLER, Mr. WHITEHOUSE, Mrs. GILLIBRAND, and Mr. CARDIN).

S. 1701. A bill to amend the Harmful Algal Blooms and Hypoxia Research and Control Act of 1998, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Ms. SNOWE. Mr. President, I rise today to introduce the Harmful Algal Blooms and Hypoxia Research and Control Amendments Act of 2011. This bill would enhance the research programs established in the Harmful Algal Blooms and Hypoxia Research and Control Act of 1998 and reauthorized in 2004, which have greatly enhanced our ability to predict outbreaks of harmful algal blooms, HABs, and the extent of hypoxic zones. But knowing when outbreaks will occur is only half the battle. This bill addresses not only the mitigation and prevention of HABs and hypoxia, but also prioritizes the effective transition of research products into implementable actions that state and local governments can take to minimize adverse impacts.

I am proud to continue my leadership on this important issue and I particularly want to thank my counterpart on this key piece of legislation, Senator BILL NELSON. I also want to thank the bill's additional co-sponsors, Senators BEGICH, ROCKEFELLER, WHITEHOUSE, GILLIBRAND and CARDIN for their support.

In New England blooms of Alexandrium algae, more commonly known as ''red tide'' can cause shellfish to accumulate toxins that when consumed by humans lead to paralytic shellfish poisoning, PSP, a potentially fatal neurological disorder. Therefore, when levels of Alexandrium reach dangerous levels, our fishery managers are forced to close shellfish beds that provide hundreds of jobs and add millions of dollars to our regional economy. Red tide outbreaks—which occur in various forms not just in the northeast, but along thousands of miles of U.S. coastline—have increased dramatically in the Gulf of Maine in the last 20 years, with major blooms occurring almost every year.

In 2009, Maine's shellfish industry experienced a severe economic crisis as result of extensive rainfall and subsequent outbreak of red tide. The resulting closure of 97 percent of the State's shellfish beds and 100 percent of the offshore beds in federal waters for several months during the peak harvesting season was even more damaging to the shellfish industry and coastal economy than previous outbreaks in 2005 and 2008. In December 2010, Department of Commerce Secretary Locke found that the 2009 red tide bloom had caused a commercial fishery failure. Despite the recognition of their losses, fishermen have never received any economic assistance or compensation for the 2009 fishery disaster.

The HABs and hypoxia programs are critical to Maine's $50 million shellfish industry and the 3000 jobs that depend on it. Luckily, we have not experienced strong blooms in 2010 and 2011, and recent years have seen an increase in testing capabilities that allow for finer scale monitoring so that localized areas may remain open during an event. These critical procedures are a direct result of programs established by the Harmful Algal Blooms and Hypoxia Research and Control Acts of 1998 and 2004.

While we have made great strides in bloom prediction and monitoring, it is clear that these problems are continuing to increase in magnitude and demand our ongoing commitment and attention. Harmful algal blooms remain prevalent nationwide, and areas of hypoxia, also known as ''dead zones'' are now occurring with increasing frequency. Within a dead zone, oxygen levels plummet to the point at which they can no longer sustain life, driving out animals that can move, and killing those that cannot. The most infamous dead zone occurs annually in the Gulf of Mexico, off the shores of Louisiana. This area, averaging 6700 square miles in size over the last 5 years, is exacerbating the already difficult recovery of the Gulf region from last year's devastating oil spill. Dead zones are also occurring in more areas than ever before, including off the coasts of Oregon and Texas, and in the Chesapeake Bay.

The amendments contained in this legislation would enhance the Nation's ability to predict, monitor, and ultimately control harmful algal blooms and hypoxia. Understanding when these blooms will occur is vital, but the time has come to take this program to the next level—to determine not just when an outbreak will occur, but how to reduce its intensity or prevent its occurrence all together. This bill would build on NOAA's successes in research and forecasting by creating a program to mitigate and control HAB outbreaks.

This bill also recognizes the need to enhance coordination among state and local resource managers—those on the front lines who must make the decisions to close beaches or shellfish beds. Their decisions are critical to protecting human health, but can also impose significant economic impacts. The bill would require development of Regional Research and Action Plans to identify baseline research, possible State and local government actions to prepare for and mitigate the impacts of HABs, and establish outreach strategies to ensure the public is informed of the dangers these events can present. A regional focus on these issues will ensure a more effective and efficient response to future events. Finally, this bill would provide for research, response and mitigation of harmful algal blooms annypoxia in fresh water systems.

If enacted, this critical reauthorization would greatly enhance our Nation's ability to predict, monitor, mitigate, and control outbreaks of HABs and hypoxia. Over half the U.S. population resides in coastal regions, and we must do all in our power to safeguard not only their health and the health of the marine environment, but we must also protect the jobs that depend on it. The existing Harmful Algal Bloom and Hypoxia Program has achieved a great deal already, and this authorization will allow it to continue providing such a vital service to the nation. I thank Senator BILL NELSON, and all of my cosponsors again for their efforts in developing this important legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1701

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 ''Harmful Algal Blooms and Hypoxia Research and Control Amendments Act of 2011''.

SEC. 2. AMENDMENT OF HARMFUL ALGAL BLOOM AND HYPOXIA RESEARCH AND CONTROL ACT OF 1998.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Harmful Algal Bloom and Hypoxia Research and Control Act of 1998 (16 U.S.C. 1451 note).

SEC. 3. FINDINGS.

Section 602 is amended to read as follows:

''§ 602. Findings

''Congress finds the following:

''(1) Harmful algal blooms and hypoxia—

''(A) are increasing in frequency and intensity in the Nation's coastal waters and Great Lakes;

''(B) pose a threat to the health of coastal and Great Lakes ecosystems;

''(C) are costly to coastal economies; and

''(D) threaten the safety of seafood and human health.

''(2) Excessive nutrients in coastal waters have been linked to the increased intensity and frequency of hypoxia and some harmful algal blooms. There is a need to identify more workable and effective actions to reduce the negative impacts of harmful algal blooms and hypoxia on coastal waters.

''(3) The National Oceanic and Atmospheric Administration, through its ongoing research, monitoring, observing, education, grant, and coastal resource management programs and in collaboration with the other Federal agencies on the Inter-Agency Task Force on Harmful Algal Blooms and Hypoxia, along with States, Indian tribes, and local governments, possesses the capabilities necessary to support a near and long-term comprehensive effort to prevent, reduce, and control the human and environmental costs of harmful algal blooms and hypoxia.

''(4) Increases in nutrient loading from point and nonpoint sources can trigger and exacerbate harmful algal blooms and hypoxia. Since much of the increases originate in upland areas and are delivered to marine and freshwater bodies via river discharge, integrated and landscape-level research and control strategies are required.

''(5) Harmful algal blooms and hypoxia affect many sectors of the coastal economy, including tourism, public health, and recreational and commercial fisheries. According to a recent report produced by the National Oceanic and Atmospheric Administration, the United States seafood, restaurant, and tourism industries suffer estimated annual losses of at least $82,000,000 due to the economic impacts of harmful algal blooms.

''(6) The proliferation of harmful and nuisance algae can occur in all United States waters, including coastal areas (such as estuaries), the Great Lakes, and inland waterways, crossing political boundaries and necessitating regional coordination for research, monitoring, mitigation, response, and prevention efforts.

''(7) Federally funded and other research has led to several technological advances, including remote sensing, molecular and optical tools, satellite imagery, and coastal and ocean observing systems, that—

''(A) provide data for forecast models;

''(B) improve the monitoring and prediction of these events; and

''(C) provide essential decision making tools for managers and stakeholders.''.

SEC. 4. PURPOSES.

The Act is amended by inserting after section 602 the following:

''§ 602A. Purposes

''The purposes of this title are—

''(1) to provide for the development and coordination of a comprehensive and integrated national program to address harmful algal blooms and hypoxia through baseline research, monitoring, prevention, mitigation, and control;

''(2) to provide for the assessment of environmental, socioeconomic, and human health impacts of harmful algal blooms and hypoxia on a regional and national scale, and to integrate this assessment into marine and freshwater resource decisions; and

''(3) to facilitate regional, State, tribal, and local efforts to develop and implement appropriate harmful algal bloom and hypoxia response plans, strategies, and tools, including outreach programs and information dissemination mechanisms.''.

SEC. 5. INTER-AGENCY TASK FORCE ON HARMFUL ALGAL BLOOMS AND HYPOXIA.

Section 603(a) is amended—

(1) by striking ''the following representatives from'' and inserting ''a representative from'';

(2) in paragraph (11), by striking ''and'';

(3) by redesignating paragraph (12) as paragraph (13);

(4) by inserting after paragraph (11) the following:

''(12) The Centers for Disease Control; and''; and

(5) in paragraph (13), as redesignated, by striking ''such''.

SEC. 6. NATIONAL HARMFUL ALGAL BLOOM AND HYPOXIA PROGRAM.

The Act is amended by inserting after section 603 the following:

''§ 603A. National harmful algal bloom and hypoxia program

''(a) ESTABLISHMENT.—Except as provided in subsection (d), the Under Secretary, acting through the Task Force established under section 603, shall establish and maintain a national harmful algal bloom and hypoxia program.

''(b) ACTION STRATEGY.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of the Harmful Algal Blooms and Hypoxia Research and Control Amendments Act of 2011, the Task Force shall develop a national harmful algal blooms and hypoxia action strategy that—

''(A) is consistent with the purposes under section 602A;

''(B) includes a statement of goals and objectives; and

''(C) includes an implementation plan.

''(2) PUBLICATION.—Not later than 30 days after the date that the action strategy is developed, the Task Force shall—

''(A) submit the action strategy to Congress; and

''(B) publish the action strategy in the Federal Register.

''(3) PERIODIC REVISION.—The Task Force shall periodically review and revise the action strategy, as necessary.

''(c) TASK FORCE FUNCTIONS.—The Task Force shall—

''(1) coordinate interagency review of plans and policies of the Program;

''(2) assess interagency work and spending plans for implementing the activities of the Program;

''(3) review the Program's distribution of Federal grants and funding to address research priorities;

''(4) support the implementation of the actions and strategies identified in the regional research and action plans under section 603B;

''(5) support the development of institutional mechanisms and financial instruments to further the goals of the Program;

''(6) coordinate and integrate the research of all Federal programs, including ocean and Great Lakes science and management programs and centers, that address the chemical, biological, and physical components of marine and freshwater harmful algal blooms and hypoxia;

''(7) expedite the interagency review process by ensuring timely review and dispersal of required reports and assessments under this title;

''(8) promote the development of new technologies for predicting, monitoring, and mitigating harmful algal blooms and hypoxia conditions; and

''(9) establish such interagency working groups as it considers necessary.

''(d) LEAD FEDERAL AGENCY.—The National Oceanic and Atmospheric Administration shall have primary responsibility for administering the Program.

''(e) PROGRAM DUTIES.—In administering the Program, the Under Secretary shall—

''(1) develop and promote a national strategy to understand, detect, predict, control, mitigate, and respond to marine and freshwater harmful algal bloom and hypoxia events;

''(2) prepare work and spending plans for implementing the activities of the Program and developing and implementing the regional research and action plans;

''(3) administer merit-based, competitive grant funding—

''(A) to support the projects maintained and established by the Program; and

''(B) to address the research and management needs and priorities identified in the regional research and action plans;

''(4) coordinate and work cooperatively with regional, State, tribal, and local government agencies and programs that address marine and freshwater harmful algal blooms and hypoxia;

''(5) coordinate with the Secretary of State to support international efforts on marine and freshwater harmful algal bloom and hypoxia information sharing, research, mitigation, control, and response activities;

''(6) identify additional research, development, and demonstration needs and priorities relating to monitoring, prevention, control, mitigation, and response to marine and freshwater harmful algal blooms and hypoxia, including methods and technologies to protect the ecosystems affected by marine and freshwater harmful algal blooms and hypoxia;

''(7) integrate, coordinate, and augment existing education programs to improve public understanding and awareness of the causes, impacts, and mitigation efforts for marine and freshwater harmful algal blooms and hypoxia;

''(8) facilitate and provide resources to train State and local coastal and water resource managers in the methods and technologies for monitoring, controlling, and mitigating marine and freshwater harmful algal blooms and hypoxia;

''(9) support regional efforts to control and mitigate outbreaks through—

''(A) communication of the contents of the regional research and action plans and maintenance of online data portals for other information about harmful algal blooms and hypoxia to State and local stakeholders within the region for which each plan is developed; and

''(B) overseeing the development, review, and periodic updating of regional research and action plans;

''(10) convene at least 1 meeting of the Task Force each year; and

''(11) perform such other tasks as may be delegated by the Task Force.

''(f) NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION ACTIVITIES.—The Under Secretary shall—

''(1) maintain and enhance the existing competitive programs at the National Oceanic and Atmospheric Administration relating to marine and freshwater algal blooms and hypoxia;

''(2) carry out marine and Great Lakes harmful algal bloom and hypoxia events response activities;

''(3) establish new programs and infrastructure, as necessary, to develop and enhance the critical observations, monitoring, modeling, data management, information dissemination, and operational forecasts required to meet the purposes under section 602A;

''(4) enhance communication and coordination among Federal agencies carrying out marine and freshwater harmful algal bloom and hypoxia activities; and

''(5) increase the availability to appropriate public and private entities of—

''(A) analytical facilities and technologies;

''(B) operational forecasts; and

''(C) reference and research materials.

''(g) COOPERATIVE EFFORTS.—The Under Secretary shall work cooperatively and avoid duplication of effort with other offices,

centers, and programs within the National Oceanic and Atmospheric Administration, other agencies on the Task Force, and States, tribes, and nongovernmental organizations concerned with marine and freshwater issues to coordinate harmful algal blooms and hypoxia (and related) activities and research.

''(h) FRESHWATER PROGRAM.—With respect to the freshwater aspects of the Program, except for those aspects occurring in the Great Lakes, the Administrator of the Environmental Protection Agency, in consultation with the Under Secretary, through the Task Force, shall—

''(1) carry out the duties assigned to the Under Secretary under this section and section 603B, including the activities under subsection (g);

''(2) research the ecology of freshwater harmful algal blooms;

''(3) monitor and respond to freshwater harmful algal blooms events in lakes (except for the Great Lakes), rivers, and reservoirs;

''(4) mitigate and control freshwater harmful algal blooms; and

''(5) recommend the amount of funding required to carry out subsection (g) for inclusion in the President's annual budget request to Congress.

''(i) INTEGRATED COASTAL AND OCEAN OBSERVATION SYSTEM.—The collection of monitoring and observation data under this title shall comply with all data standards and protocols developed pursuant to the Integrated Coastal and Ocean Observation System Act of 2009 (33 U.S.C. 3601 et seq.). Such data shall be made available through the system established under that Act.''.

SEC. 7. REGIONAL RESEARCH AND ACTION PLANS.

The Act, as amended by section 6 of this Act, is further amended by inserting after section 603A the following:

''§ 603B. Regional research and action plans

''(a) IN GENERAL.—In administering the Program, the Under Secretary shall—

''(1) identify appropriate regions and subregions to be addressed by each regional research and action plan; and

''(2) oversee the development and implementation of the regional research and action plans.

''(b) PLAN DEVELOPMENT.—The Under Secretary shall—

''(1) develop and submit to the Task Force for approval a regional research and action plan for each region, that builds upon any existing State or regional plans the Under Secretary considers appropriate; and

''(2) identify appropriate elements for each region, including—

''(A) baseline ecological, social, and economic research needed to understand the biological, physical, and chemical conditions that cause, exacerbate, and result from harmful algal blooms and hypoxia;

''(B) regional priorities for ecological and socio-economic research on issues related to and impacts of harmful algal blooms and hypoxia;

''(C) research, development, and demonstration activities needed to develop and advance technologies and techniques—

''(i) for minimizing the occurrence of harmful algal blooms and hypoxia; and

''(ii) for improving capabilities to predict, monitor, prevent, control, and mitigate harmful algal blooms and hypoxia;

''(D) State, tribal, and local government actions that may be implemented—

''(i) to support long-term monitoring efforts and emergency monitoring as needed;

''(ii) to minimize the occurrence of harmful algal blooms and hypoxia;

''(iii) to reduce the duration and intensity of harmful algal blooms and hypoxia in times of emergency;

''(iv) to address human health dimensions of harmful algal blooms and hypoxia; and

''(v) to identify and protect vulnerable ecosystems that could be, or have been, affected by harmful algal blooms and hypoxia;

''(E) mechanisms by which data, information, and products are transferred between the Program and State, tribal, and local governments and research entities;

''(F) communication, outreach and information dissemination efforts that State, tribal, and local governments and stakeholder organizations can take to educate and inform the public about harmful algal blooms and hypoxia and alternative coastal resource-utilization opportunities that are available; and

''(G) the roles that Federal agencies can play to facilitate implementation of the regional research and action plan for that region.

''(c) CONSULTATION.—In developing a regional research and action plan under this section, the Under Secretary shall—

''(1) coordinate with State coastal management and planning officials;

''(2) coordinate with tribal resource management officials;

''(3) coordinate with water management and watershed officials from coastal States and noncoastal States with water sources that drain into water bodies affected by harmful algal blooms and hypoxia;

''(4) coordinate with the Administrator and other Federal agencies as the Under Secretary considers appropriate; and

''(5) consult with—

''(A) public health officials;

''(B) emergency management officials;

''(C) science and technology development institutions;

''(D) economists;

''(E) industries and businesses affected by marine and freshwater harmful algal blooms and hypoxia;

''(F) scientists, with expertise concerning harmful algal blooms or hypoxia, from academic or research institutions; and

''(G) other stakeholders.

''(d) BUILDING ON AVAILABLE STUDIES AND INFORMATION.—In developing a regional research and action plan under this section, the Under Secretary shall—

''(1) utilize and build on existing research, assessments, reports, including those carried out under existing law, and other relevant sources; and

''(2) consider the impacts, research, and existing program activities of all United States coastlines and fresh and inland waters, including the Great Lakes, the Chesapeake Bay, estuaries, and tributaries.

''(e) SCHEDULE.—The Under Secretary shall—

''(1) begin developing the regional research and action plans for at least a third of the regions not later than 9 months after the date of the enactment of the Harmful Algal Blooms and Hypoxia Research and Control Amendments Act of 2011;

''(2) begin developing the regional research and action plans for at least another third of the regions not later than 21 months after the date of the enactment of the Harmful Algal Blooms and Hypoxia Research and Control Amendments Act of 2011;

''(3) begin developing the regional research and action plans for the remaining regions not later than 33 months after the date of the enactment of the Harmful Algal Blooms and Hypoxia Research and Control Amendments Act of 2011; and

''(4) ensure that each regional research and action plan developed under this section is—

''(A) completed and approved by the Task Force not later than 12 months after the date that development of the regional research and action plan begins; and

''(B) updated not less than once every 5 years after the completion of the regional research and action plan.

''(f) FUNDING.—

''(1) IN GENERAL.—Subject to available appropriations, the Under Secretary shall make funding available to eligible organizations to implement the research, monitoring, forecasting, modeling, and response actions included under each approved regional research and action plan. The Program shall select recipients through a merit-based, competitive process and seek to fund research proposals that most effectively align with the research priorities identified in the relevant regional research and action plan.

''(2) APPLICATION; ASSURANCES.—An organization seeking funding under this subsection shall submit an application to the Program at such time, in such form and manner, and containing such information and assurances as the Program may require. The Program shall require each eligible organization receiving funds under this subsection to utilize the mechanisms under subsection (b)(2)(E) to ensure the transfer of data and products developed under the regional research and action plan.

''(3) ELIGIBLE ORGANIZATION.—In this subsection, the term ''eligible organization'' means—

''(A) an institution of higher education, other non-profit organization, State, tribal, or local government, commercial organization, or Federal agency that meets the requirements of this section and such other requirements as may be established by the Under Secretary; and

''(B) with respect to nongovernmental organizations, an organization that is subject to regulations promulgated or guidelines issued to carry out this section, including United States audit requirements that are applicable to nongovernmental organizations.''.

SEC. 8. REPORTING.

Section 603 is amended by adding at the end the following:

''(j) REPORT.—Not later than 2 years after the submission of the action strategy under section 603A, the Under Secretary shall submit a report to the appropriate congressional committees that describes—

''(1) the proceedings of the annual Task Force meetings;

''(2) the activities carried out under the Program and the regional research and action plans, and the budget related to the activities;

''(3) the progress made on implementing the action strategy; and

''(4) any need to revise or terminate activities or projects under the Program.

''(k) PROGRAM REPORT.—Not later than 5 years after the date of enactment of the Harmful Algal Blooms and Hypoxia Research and Control Amendments Act of 2011, the Task Force shall submit a report on harmful algal blooms and hypoxia in marine and freshwater systems to Congress that—

''(1) evaluates the state of scientific knowledge of harmful algal blooms and hypoxia in marine and freshwater systems, including their causes and ecological consequences;

''(2) evaluates the social and economic impacts of harmful algal blooms and hypoxia, including their impacts on coastal communities, and reviews those communities' efforts and associated economic costs related to event forecasting, planning, mitigation, response, public outreach, and education;

''(3) examines and evaluates the human health impacts of harmful algal blooms and hypoxia, including any gaps in existing research;

''(4) describes advances in capabilities for monitoring, forecasting, modeling, control,

mitigation, and prevention of harmful algal blooms and hypoxia, including techniques for integrating landscape- and watershed-level water quality information into marine and freshwater harmful algal bloom and hypoxia prevention and mitigation strategies at Federal and regional levels;

''(5) evaluates progress made by, and the needs of, Federal, regional, State, tribal, and local policies and strategies for forecasting, planning, mitigating, preventing, and responding to harmful algal blooms and hypoxia, including the economic costs and benefits of the policies and strategies;

''(6) includes recommendations for integrating, improving, and funding future Federal, regional, State, tribal, and local policies and strategies for preventing and mitigating the occurrence and impacts of harmful algal blooms and hypoxia;

''(7) describes communication, outreach, and education efforts to raise public awareness of harmful algal blooms and hypoxia, their impacts, and the methods for mitigation and prevention;

''(8) describes extramural research activities carried out under section 605(b); and

''(9) specifies how resources were allocated between intramural and extramural research and management activities, including a justification for each allocation.''.

SEC. 9. NORTHERN GULF OF MEXICO HYPOXIA.

Section 604 is amended to read as follows:

''SEC. 604. NORTHERN GULF OF MEXICO HYPOXIA.

''(a) TASK FORCE INITIAL PROGRESS REPORTS.—Beginning not later than 12 months after the date of enactment of the Harmful Algal Blooms and Hypoxia Research and Control Amendments Act of 2011, and every 2 years thereafter, the Administrator, through the Mississippi River/Gulf of Mexico Watershed Nutrient Task Force, shall submit a progress report to the appropriate congressional committees and the President that describes the progress made by Task Force-directed activities carried out or funded by the Environmental Protection Agency and other State and Federal partners toward attainment of the goals of the Gulf Hypoxia Action Plan 2008.

''(b) CONTENTS.—Each report required under this section shall—

''(1) assess the progress made toward nutrient load reductions, the response of the hypoxic zone and water quality throughout the Mississippi/Atchafalaya River Basin, and the economic and social effects;

''(2) evaluate lessons learned; and

''(3) recommend appropriate actions to continue to implement or, if necessary, revise the strategy set forth in the Gulf Hypoxia Action Plan 2008.''.

SEC. 10. INTERAGENCY FINANCING.

The Act, as amended by section 9 of this Act, is further amended by inserting after section 604 the following:

''SEC. 604A. INTERAGENCY FINANCING.

''The departments and agencies represented on the Task Force may participate in interagency financing and share, transfer, receive, obligate, and expend funds appropriated to any member of the Task Force for the purposes of carrying out any administrative or programmatic project or activity under this title, including support for the Program, a common infrastructure, information sharing, and system integration for harmful algal bloom and hypoxia research, monitoring, forecasting, prevention, and control. Funds may be transferred among such departments and agencies through an appropriate instrument that specifies the goods, services, or space being acquired from another Task Force member and the costs of the goods, services, and space. The amount of funds transferrable under this section for any fiscal year may not exceed 5 percent of the account from which such transfer was made.''.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

Section 605 is amended to read as follows:

''§ 605. Authorization of appropriations

''(a) IN GENERAL.—There are authorized to be appropriated, for each of the fiscal years 2011 through 2015 to the Under Secretary to carry out sections 603A and 603B, $30,000,000, of which—

''(1) $2,000,000 may be used for the development of regional research and action plans and the reports required under section 603B;

''(2) $3,000,000 may be used for the research and assessment activities related to marine and freshwater harmful algal blooms at the National Oceanic and Atmospheric Administration research laboratories;

''(3) $7,000,000 may be used to carry out the Ecology and Oceanography of Harmful Algal Blooms Program (ECOHAB);

''(4) $4,500,000 may be used to carry out the Monitoring and Event Response for Harmful Algal Blooms Program (MERHAB);

''(5) $1,500,000 may be used to carry out the Northern Gulf of Mexico Ecosystems and Hypoxia Assessment Program (NGOMEX);

''(6) $4,000,000 may be used to carry out the Coastal Hypoxia Research Program (CHRP);

''(7) $4,000,000 may be used to carry out the Prevention, Control, and Mitigation of Harmful Algal Blooms Program (PCM);

''(8) $1,000,000 may be used to carry out the Event Response Program; and

''(9) $3,000,000 may be used to carry out the Infrastructure Program.

''(b) EXTRAMURAL RESEARCH ACTIVITIES.—The Under Secretary shall ensure that a substantial portion of funds appropriated pursuant to subsection (a) that are used for research purposes are allocated to extramural research activities.''.

SEC. 12. DEFINITIONS; CONFORMING AMENDMENT.

(a) IN GENERAL.—The Act is amended by inserting after section 605 the following:

''§ 605A. Definitions

''In this title:

''(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the National Oceanic and Atmospheric Administration.

''(2) HARMFUL ALGAL BLOOM.—The term 'harmful algal bloom' means marine and freshwater phytoplankton that proliferate to high concentrations, resulting in nuisance conditions or harmful impacts on marine and aquatic ecosystems, coastal communities, and human health through the production of toxic compounds or other biological, chemical, and physical impacts of the algae outbreak.

''(3) HYPOXIA.—The term 'hypoxia' means a condition where low dissolved oxygen in aquatic systems causes stress or death to resident organisms.

''(4) PROGRAM.—The term 'Program' means the National Harmful Algal Bloom and Hypoxia Program established under section 603A.

''(5) REGIONAL RESEARCH AND ACTION PLAN.—The term 'regional research and action plan' means a plan established under section 603B.

''(6) STATE.—The term 'State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, any other territory or possession of the United States, and any Indian tribe.

''(7) TASK FORCE.—The term 'Task Force' means the Inter-Agency Task Force established by section 603(a).

''(8) UNDER SECRETARY.—The term 'Under Secretary' means the Under Secretary of Commerce for Oceans and Atmosphere.''.

''(9) UNITED STATES COASTAL WATERS.—The term 'United States coastal waters' includes the Great Lakes.''.

(b) CONFORMING AMENDMENT.—Section 603(a) is amended by striking ''(hereinafter referred to as the 'Task Force')''.

SEC. 13. APPLICATION WITH OTHER LAWS.

The Act is amended by adding after section 606 the following:

''SEC. 607. EFFECT ON OTHER FEDERAL AUTHORITY.

''Nothing in this title supersedes or limits the authority of any agency to carry out its responsibilities and missions under other laws.''.

By Mr. PRYOR (for himself, Mr. BINGAMAN, Ms. MURKOWSKI, Mr. BEGICH, Mr. COONS, Mr. BURR, and Mr. TESTER):

S. 1703. A bill to amend the Department of Energy Organization Act to require a Quadrennial Energy Review, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. PRYOR. Mr. President, I rise today along with Senators BINGAMAN, MURKOWSKI, BEGICH, COONS, TESTER and BURR to introduce the Quadrennial Energy Review Act of 2011.

One of the big gaps in federal energy policy is the lack of an overarching vision and coordination among federal agencies to define how the United States produces and uses energy. Every president since Richard Nixon has called for America's independence from oil. We also need to make sure that our nation has a 21st century electric grid that matches supply with demand. If we want to create a more secure energy future for America then we need to develop a national energy plan that coordinates and integrates the energy policies of the various federal agencies. The development of such a policy would enhance our energy security, create jobs and mitigate environmental harm.

In the fall of 2009, Secretary of Energy Steven Chu asked the President's Council of Advisors on Science and Technology, PCAST, to review the energy technology innovation system to identify and recommend ways to accelerate the large scale transformation of energy production, delivery, and use to a low carbon energy system. In response, PCAST formed a working group and in 2010 issued its ''Report to the President on Accelerating the Pace of Change in Energy Technologies through an Integrated Federal Energy Policy''. PCAST's most important recommendation is that the Administration establish a new process that can forge a more coordinated and robust Federal energy policy, a major piece of which is advancing energy innovation. The report recommends—

The President should establish a Quadrennial Energy Review, QER, process that will provide a multiyear roadmap that lays out an integrated view of short-, intermediate-, and long-term energy objectives; outlines

legislative proposals to Congress; puts forward anticipated Executive actions coordinated across multiple agencies; and identifies resource requirements for the development and implementation of energy technologies.

Last month, the American Energy Innovation Council (AEIC) released a report, Catalyzing American Ingenuity (http://www.americanenergyinnovation.org/2011-report/), which noted:

The nation needs a robust National Energy Plan to serve as a strategic technology and policy roadmap . . . [to] ''provide a clear, integrated road map with short-, intermediate-, and long-term objectives for federal energy policies and technology programs, along with a structured, time-bound plan to get there. We support DOE's Quadrennial Technology Review, QTR, which we see as an important and meaningful first step toward developing a national energy strategy. The federal government should build on the QTR and move quickly toward a government-wide QER.

AEIC is a group of prominent business leaders who came together last year to call for a more vigorous public and private sector commitment to energy technology innovation. AEIC members include: Norm Augustine, former chairman and chief executive officer of Lockheed Martin; Ursula Burns, chairman and chief executive officer of Xerox; John Doerr, partner at Kleiner Perkins Caufield & Byers; Bill Gates, chairman and former chief executive officer of Microsoft; Charles O. Holliday, chairman of Bank of America and former chairman and chief executive officer of DuPont; Jeff Immelt, chairman and chief executive officer of GE; and Tim Solso, chairman and chief executive officer of Cummins Inc.

A Quadrennial Energy Review could establish government-wide energy goals, coordinate actions across agencies, and lead to the development of a national energy policy.

As the lead agency in support of energy science and technology innovation, the Department of Energy has taken the first step to developing a national energy plan by conducting a Quadrennial Technology Review of the energy technology policies and programs of the Department. The QTR serves as the basis for DOE's coordination with other agencies and on other programs for which the Department has a key role.

The next step is to build upon DOE's report and perform a Quadrennial Energy Review that would establish government-wide energy objectives, coordinate actions across Federal agencies, and provide a strong analytical base for Federal energy policy decisions.

Our bill, the Quadrennial Energy Review Act of 2011, would authorize the President to establish an Interagency Working Group to submit a Quadrennial Energy Review to Congress by February 1, 2014, and every 4 years thereafter. The Group would be co-chaired by the Secretary of Energy and the Director of the Office of Science and Technology Policy, OSTP, and consist of level I or II Executive Schedule members representing the Departments of Commerce, Defense, State, Interior, Agriculture, Treasury, and Transportation, Office of Management and Budget, National Science Foundation, Environmental Protection Agency, and other Federal organizations, departments and agencies that the President considers to be appropriate.

The bill lists what information, at a minimum, shall be reported in the Quadrennial Energy Review and requires the Secretary of Energy to provide the Executive Secretariat and for agency heads to cooperate with the Secretary.

We live in a global world with global demands on energy. The country that best manages its energy resources will lead the 21st century and provide its people a secure energy future. The U.S. needs to win the energy race and this bill will help the United States remain that country.

By Ms. AYOTTE (for herself and Mr. REED);

S. 1704. A bill to amend title 10, United States Code, to modify certain authorities relating to the strategic airlift aircraft force structure of the Air Force; to the Committee on Armed Services.

Ms. AYOTTE. Mr. President, I am pleased to introduce today, along with my colleague Senator REED, the Strategic Airlift Force Structure Reform Act of 2011.

Current Federal law U.S. Code Title 10, 8062(g)(1) sets the Air Force's minimum number of strategic airlift aircraft at 316. However, based on the Mobility Capabilities and Requirements Study-2016, Department of Defense and Air Force officials have testified approximately 300 aircraft can meet our nation's strategic airlift capacity requirements.

During a July 13, 2011, Senate Armed Services Subcommittee hearing, Christine Fox, Director of Cost Assessment and Program Evaluation, CAPE, in the Office of Secretary of Defense; General Duncan McNabb, Commander of U.S. Transportation Command, TRANSCOM; and General Raymond Johns, Commander of Air Mobility Command, AMC, testified that reducing the number to around 300 aircraft would allow the Air Force to meet airlift requirements while saving over $1.2 billion and not increasing operational risk. In fact, General Johns testified that strategic airlift aircraft in excess of 301 were ''over capacity'' that forces ''extra workload on our airmen to keep that capability when we don't need to utilize it.''

Based on this testimony, the Strategic Airlift Force Structure Act of 2011 would reduce the strategic airlift aircraft floor from 316 to 301.

In this time of fiscal austerity, Congress needs to stop forcing the Pentagon to spend defense dollars maintaining aircraft that our warfighters say they don't need. Every defense dollar wasted deprives our warfighters of the resources they have actually requested. Reducing the aircraft floor is a commonsense step that would save taxpayers millions of dollars while ensuring that our military continues to meet strategic airlift requirements.

I encourage my colleagues to carefully review our legislation and I welcome their comments.

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. 1704

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 ''Strategic Airlift Force Structure Reform Act of 2011''.

SEC. 2. STRATEGIC AIRLIFT AIRCRAFT FORCE STRUCTURE OF THE AIR FORCE.

Section 8062(g)(1) of title 10, United States Code, is amended—

(1) by striking ''Effective October 1, 2009, the Secretary'' and inserting ''The Secretary''; and

(2) by striking ''316 aircraft'' and inserting ''301 aircraft''.

By Mrs. MURRAY (for herself and Ms. CANTWELL):

S. 1705. A bill to designate the Department of Veterans Affairs Medical Center in Spokane, Washington, as the ''Mann-Grandstaff Department of Veterans Affairs Medical Center''; to the Committee on Veterans' Affairs.

Mrs. MURRAY. Mr. President, today I am proud to introduce legislation to name the Department of Veterans Affairs Medical Center in Spokane, WA, after two Medal of Honor recipients, Private First Class Joe E. Mann and Platoon Sergeant Bruce A. Grandstaff. My colleague Senator CANTWELL is joining me to introduce this bill in the Senate. This proposal has received widespread support from the Washington state chapters of several key national veterans service organizations, including the Veterans of Foreign Wars, American Legion, AMVETS, Disabled American Veterans, Paralyzed Veterans of America, and Vietnam Veterans of America.

I would like to share something about these two heroes. Private Mann was born in Reardan, Washington, and served in the 101st Airborne Division during World War II. While attempting to seize the bridge across the Wilhelmina Canal, his platoon was isolated, surrounded, and outnumbered by enemy forces. Despite heavy enemy fire, he bravely advanced to within rocket-launching range of the enemy as the lead scout. Private Mann was wounded four separate times while destroying an enemy artillery position near Best, Holland. Despite his wounds, he volunteered to stay on sentry duty that night with both his arms bandaged to his body. The following day when the final assault came, an enemy grenade was thrown in his vicinity. Unable to throw it to safety due to his

wounds and bandages, Private Mann threw himself on the grenade, sacrificing his life to save the lives of his fellow soldiers.

Sergeant Grandstaff was born in Spokane, Washington, and served in the 4th Infantry Division. While leading a reconnaissance mission near the Cambodian border, Sergeant Grandstaff's platoon was ambushed by heavy automatic weapons and small arms fire from three directions. He ran through enemy fire to rescue his wounded men, but was only able to save one. Twice he crawled outside the safety of his unit's position to mark their location with smoke grenades for aerial fire support, and twice he was wounded. His second marker successfully notified the helicopter gunships of his location, but drew even more enemy fire. Seeing the enemy assault about to overrun his position, Sergeant Grandstaff inspired his remaining men to continue the fight against enemy forces. He called in an artillery barrage on himself to thwart the enemy forces, and continued to fight until he was finally and mortally wounded by an enemy rocket. Although every man in his unit was a casualty, survivors testified that his spirit and courage inspired the unit to inflict heavy casualties on the assaulting enemy even though the odds were stacked against them.

I am especially proud to introduce this bill. Its purpose is to honor not just one American hero, but two native sons of Washington who gave their lives fighting on behalf of our nation. Also, both of these men now rest in peace approximately 10 minutes away from the Spokane VA Medical Center, which serves veterans of all generations, from World War II to Vietnam to our newest generation of American heroes.

Above all else, this bill is intended to honor both Private Mann and Sergeant Grandstaff for their ''conspicuous gallantry and intrepidity at the risk of life above and beyond the call of duty.'' By renaming the Spokane VA Medical Center as the Mann-Grandstaff VA Medical Center, we will honor the service and ultimate sacrifice provided by these two local heroes. I urge my colleagues to support this legislation and thank them for their continued support of our dedicated men and women in uniform.

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. 1705

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF MANN-GRANDSTAFF DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER.

(a) DESIGNATION.—The Department of Veterans Affairs Medical Center in Spokane, Washington, shall after the date of the enactment of this Act be known and designated as the ''Mann-Grandstaff Department of Veterans Affairs Medical Center''.

(b) REFERENCES.—Any reference to in any law, regulation, map, document, record, or other paper of the United States to the medical center referred to in subsection (a) shall be considered to be a reference to the Mann-Grandstaff Department of Veterans Affairs Medical Center.

By Mr. REED (for himself, Mr. BROWN of Massachusetts, Mr. KERRY, and Mr. WHITEHOUSE):

S. 1708. A bill to establish the John H. Chafee Blackstone River Valley National Historical Park, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. REED. Mr. President, today I am introducing legislation for the creation of the John H. Chafee Blackstone River Valley National Historical Park, along with my colleagues from Rhode Island and Massachusetts, Senators WHITEHOUSE, KERRY, and SCOTT BROWN. Our legislation seeks to preserve the industrial heritage and natural and cultural resources of the Blackstone Valley, help provide economic development opportunities for the local economies, and build upon the solid foundation of the John H. Chafee Blackstone River Valley National Heritage Corridor.

Samuel Slater built his mill in 1793 and started the American Industrial Revolution in Rhode Island along the Blackstone River. Today, the John H. Chafee Blackstone River Valley National Heritage Corridor contains an exceptional concentration of surviving mills and villages that illustrate this chapter of American history.

The Blackstone Valley is a national treasure, which also includes thousands of acres of beautiful, undeveloped land and waterways that are home to diverse wildlife.

The extensive work of the National Park Service and the tireless efforts of Federal, State—both Rhode Island and Massachusetts—and local officials, developers, and volunteers have resulted in the recovery of dozens of historic villages, riverways, and rural landscapes throughout the Corridor. These types of economic redevelopment and environmental restoration efforts reflect the ongoing story of the Blackstone River and the valley.

The Ashton Mill in Cumberland is one such example of local redevelopment. With the designation of the National Heritage Corridor, the cleanup of the Blackstone River, the creation of the Blackstone River State Park in Lincoln, Rhode Island, and the construction of the Blackstone River Bikeway, the property was restored for adaptive reuse as rental apartments. Once again the mill and its village are a vital part of the greater Blackstone Valley community.

Great progress has also been made in restoring the environmental resources of the river valley. As a result, people are once again enjoying the river, whether in kayaks or canoes, or through other means. I have been pleased over the years to help support the preservation and renewed development of the Blackstone River Valley.

In 2005, I cosponsored legislation introduced by my then-colleague Senator Lincoln Chafee to conduct a Special Resource Study of the Corridor to determine which areas within the Corridor were nationally significant and whether they were suitable to become part of the National Park Service. When it was released this July, the study recommended the creation of a new national historic park whose boundaries would encompass both Rhode Island and Massachusetts, including the Blackstone River and its tributaries; the Blackstone Canal; the historic districts of Old Slater Mill in Pawtucket; the villages of Slatersville and Ashton in Rhode Island; and the villages of Whitinsville and Hopedale in Massachusetts.

The partnership park described in the Special Resource Study clearly stated the importance of the rural and urban areas, the landscape, and the river in telling the story of the Blackstone River Valley.

It will build upon the solid foundation of the John H. Chafee Blackstone River Valley National Heritage Corridor and the workers and volunteers in all the surrounding communities, in restoring the Corridor.

Designating these areas as a national historical park has important economic, environmental, historical, and educational benefits for the region. This is a two state initiative, and truly a national initiative, that will embrace both Rhode Island and Massachusetts, and ensure the preservation of the industrial and natural heritage of the Blackstone River Valley for future generations to enjoy.

Establishing a national park will provide opportunities for work, opportunities for recreation, and opportunities to boost economic development, while memorializing the history of this place and its role in the American Industrial Revolution.

The partnerships between the federal, state, local, and private organizations have a proven track record of success with the Corridor, and I expect that the communities in Rhode Island and Massachusetts that have been engaged on this endeavor for many years will continue to partner with the National Park Service going forward.

Creating a national historic park sets a clear path to preserve our cultural heritage, improve the use and enjoyment of these resources, including offering outdoor education for young people, and increase the level of protection for our most important and nationally significant cultural and natural resources.

I have been proud to introduce this bipartisan legislation in honor of my late-colleague John H. Chafee, who years ago had a great vision, shared with many others in Rhode Island and Massachusetts, to preserve and protect the Blackstone Valley.

I look forward to working with all of my colleagues to create the John H.

Chafee Blackstone River Valley National Historical Park.

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. 1708

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 ''John H. Chafee Blackstone River Valley National Historical Park Establishment Act''.

SEC. 2. PURPOSE.

The purpose of this Act is to establish the John H. Chafee Blackstone River Valley National Historical Park—

(1) to help preserve, protect, and interpret the nationally significant resources in the Blackstone River Valley that exemplify the industrial heritage of the John H. Chafee Blackstone River Valley National Heritage Corridor for the benefit and inspiration of future generations;

(2) to support the preservation, protection, and interpretation of the urban, rural, and agricultural landscape features (including the Blackstone River and Canal) of the region that provide an overarching context for the industrial heritage of the National Heritage Corridor;

(3) to educate the public about—

(A) the industrial history of the National Heritage Corridor; and

(B) the significance of the National Heritage Corridor to the past and present; and

(4) to support and enhance the network of partners who will continue to engage in the protection, improvement, management, and operation of key resources and facilities throughout the National Heritage Corridor.

SEC. 3. DEFINITIONS.

In this Act:

(1) MAP.—The term ''map'' means the map entitled ''John H. Chafee Blackstone River Valley National Historical Park'', numbered NEFA962/111015, and dated October 2011.

(2) NATIONAL HERITAGE CORRIDOR.—The term ''National Heritage Corridor'' means the John H. Chafee Blackstone River Valley National Heritage Corridor.

(3) PARK.—The term ''Park'' means the John H. Chafee Blackstone River Valley National Historical Park established under section 4.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Director of the National Park Service.

(5) STATE.—The term ''State'' means each of the States of Massachusetts and Rhode Island.

SEC. 4. ESTABLISHMENT OF JOHN H. CHAFEE BLACKSTONE RIVER VALLEY NATIONAL HISTORICAL PARK.

(a) ESTABLISHMENT.—There is established in the States a unit of the National Park System, to be known as the ''John H. Chafee Blackstone River Valley National Historical Park''.

(b) BOUNDARIES.—The Park shall be comprised of the following sites and districts, as generally depicted on the map:

(1) Old Slater Mill National Historic Landmark District.

(2) Slatersville Historic District.

(3) Ashton Historic District.

(4) Whitinsville Historic District.

(5) Hopedale Village Historic District.

(6) Blackstone River and the tributaries of Blackstone River.

(7) Blackstone Canal.

(c) AVAILABILITY OF MAP.—The map shall be available for public inspection in the appropriate offices of the National Park Service.

(d) ACQUISITION OF LAND.—The Secretary may acquire land or interests in land within the boundaries of the Park by—

(1) donation;

(2) purchase with donated or appropriated funds; or

(3) exchange.

(e) ADMINISTRATION.—

(1) IN GENERAL.—The Secretary shall administer the Park in accordance with—

(A) this Act;

(B) the laws generally applicable to units of the National Park System, including—

(i) the National Park Service Organic Act (16 U.S.C. 1 et seq.); and

(ii) the Act of August 21, 1935 (16 U.S.C. 461 et seq.); and

(C) any cooperative agreements entered into under subsection (f).

(2) GENERAL MANAGEMENT PLAN.—

(A) IN GENERAL.—Not later than 3 years after the date on which funds are made available to carry out this Act, the Secretary shall prepare a general management plan for the Park—

(i) in consultation with the States; and

(ii) in accordance with—

(I) any cooperative agreements entered into under subsection (f); and

(II) section 12(b) of the National Park System General Authorities Act (16 U.S.C. 1a–7(b)).

(B) REQUIREMENTS.—To the maximum extent practicable, the plan prepared under subparagraph (A) shall consider ways to use preexisting or planned visitor facilities and recreational opportunities developed in the National Heritage Corridor, including—

(i) the Blackstone Valley Visitor Center in Pawtucket, Rhode Island;

(ii) the Captain Wilbur Kelly House at Blackstone River State Park in Lincoln, Rhode Island;

(iii) the Museum of Work and Culture in Woonsocket, Rhode Island;

(iv) the River Bend Farm/Blackstone River and Canal Heritage State Park in Uxbridge, Massachusetts; and

(v) the Worcester Blackstone Visitor Center, located at the former Washburn & Moen wire mill facility in Worcester, Massachusetts.

(f) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with the States, political subdivisions of the States, nonprofit organizations (including the Blackstone River Valley National Heritage Corridor, Inc.), and private property owners to provide technical assistance and interpretation in the Park and the National Heritage Corridor.

(g) FINANCIAL ASSISTANCE.—Subject to the availability of appropriations, the Secretary may provide financial assistance, on a matching basis, for the conduct of resource protection activities in the National Heritage Corridor.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

By Mr. BEGICH (for himself and Ms. MURKOWSKI):

S. 1710. A bill to designate the United States courthouse located at 222 West 7th Avenue, Anchorage, Alaska, as the James M. Fitzgerald United States Courthouse; to the Committee on Environment and Public Works.

Mr. BEGICH. Mr. President, I come to the floor today to introduce a piece of legislation honoring a great Alaskan. James Martin Fitzgerald was a giant of my State's judicial community for 5 decades—almost as long as Alaska has been a State. This legislation, naming the Anchorage federal courthouse facility in Judge Fitzgerald's honor, is a fitting tribute to his legacy.

James Fitzgerald first came to Alaska in the 1950s. He was a decorated World War II Marine veteran, an accomplished lawyer, an Assistant U.S. Attorney, and became Alaska's first Commissioner of Public Safety. From November 1959 until his retirement until 2006, he served with distinction as a State and Federal judge unanimously praised for his fairness, brilliance and humility.

Judge Fitzgerald served as a judge on the Alaska Superior Court, Third District, from 1959 through 1972. He was the presiding judge on that court from 1969 through 1972. At that time, he became an Alaska Supreme Court Justice, where he would serve until 1975.

President Gerald Ford nominated Judge Fitzgerald to be a Judge of the United States District Court for the District of Alaska in December of 1974. He was quickly confirmed by the U.S. Senate and received his commission to the Federal bench. Judge Fitzgerald served on this Federal court until his retirement in 2006 and also spent 5 years as the chief judge of the court.

In addition to his impressive record of accomplishments and his years of public service, Judge Fitzgerald was also known for his integrity and character. His colleagues on the bench, the lawyers who testified in his courtroom and his friends and neighbors all knew him to be a humble, kind, thoughtful and generous man. For decades he was praised for his legal brilliance and his respect for all those who sought justice in his court. His contributions to the State of Alaska will not be forgotten.

Naming the Anchorage federal courthouse in Judge Fitzgerald's honor is broadly supported by Alaskans. In fact, I assembled a small committee of outstanding Alaska leaders to review this proposal and they strongly endorsed extending this honor to Judge Fitzgerald. I would like to thank the committee members for their public service: Anchorage attorney Lloyd Miller, Judge John D. Roberts, Juneau Mayor Bruce Botelho, and Liz Medicine Crow of the First Alaskans Institute.

For all these reasons, today I am proud to introduce this legislation to designate the United States Courthouse in Anchorage as the James M. Fitzgerald United States Courthouse. He was a great man and this is a fine way to remember all he did for my State.

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. 1710

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. JAMES M. FITZGERALD UNITED STATES COURTHOUSE.

(a) DESIGNATION.—The United States courthouse located at 222 West 7th Avenue, Anchorage, Alaska, shall be known and designated as the ''James M. Fitzgerald United States Courthouse''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other

record of the United States to the United States courthouse referred to in subsection (a) shall be deemed to be a reference to the ''James M. Fitzgerald United States Courthouse''.

By Mr. BROWN of Ohio:

S. 1711. A bill to enhance reciprocal market access for United States domestic producers in the negotiating process of bilateral, regional, and multilateral trade agreements; to the Committee on Finance.

Mr. BROWN of Ohio. Mr. President I rise to talk about our Nation's flawed approach to trade and its damaging effects on economic growth and job creation. Yesterday, this body approved three trade agreements that will do far too little to create manufacturing jobs here in the United States. In fact, it is clear these more-of-the-same agreements will cost manufacturing jobs in Ohio and across the nation.

In towns and cities across Ohio, workers have the proud tradition of manufacturing products that matter to America.

From steel tubes made in Lorain that equip our energy markets, to car parts made in Moraine that move our auto industry forward, Ohio manufacturers represent the heart of our nation's economy.

Ohio manufacturers and workers are some of the most industrious and innovative in the United States.

Our companies and the people who fill our factories can compete across the world—but only if your government implements trade policies that create a level playing field.

However, Republican and Democratic administrations alike, along with Congress, have signed and passed trade agreements premised on hollow promises.

Supporters of free market policies promised that past trade pacts like NAFTA would stimulate growth and create jobs.

Some companies and constituents in Ohio would argue these assertions—and the assurances that accompany current trade agreements—could not be further from the truth.

Once successful companies in my state are now collapsing under the weight of misguided trade policies.

Working families in West Chester, Pickerington, Lima, and Akron are holding on for dear life in the face of our government failing to negotiate and enforce trade deals.

A rational trade agreement should open new markets, include standards on labor and safety that are at least as strong as the commercial provisions, and help U.S. companies expand their consumer base around the world.

However, recent trade pacts have slashed tariffs for foreign competitors while doing little to address the tariff and nontariff barriers that U.S. businesses face with our trading partners. Nothing in these newly approved agreements will change this pattern.

All too often, U.S. trade negotiators have been willing to open our markets to a flood of imports while failing to win the concessions required to make trade work for America.

A quick glance at our Nation's trade statistics makes it clear that we need a new gameplan when it comes to trade.

The U.S. merchandise trade deficit has surged 46 percent over the last decade, reaching an astronomical $634 billion in 2010.

Since the implementation of NAFTA in 1994, the U.S. has lost more than three million manufacturing jobs.

Behind these numbers are the faces of middle-class Americans who have lost their job because of ill-advised trade agreements.

Whether it is the worker getting laid off at a manufacturer providing energy appliances, or the person losing their job at a steel plant, the loss of a job due to trade can be a devastating experience for families across America.

Two examples of our nation giving too much, for too little in return can be seen with the U.S.-Korea free trade agreement.

South Korea has the lowest level of import penetration for auto sales—at just 4.4 percent—of any developed country.

In 2009, the U.S. exported fewer than 6,000 cars to Korea. In the same year, Korea exported 476,000 cars to the U.S.

While a marginal improvement, the U.S.-Korea free trade agreement would allow each American-based automaker to export 25,000 cars to South Korea free of burdensome regulations.

However, it is clear that this ''concession'' does not do enough to shift the imbalanced trade in the auto sector in our direction.

In addition—much like China—South Korea would still be able to manipulate its currency—thwarting the ability of American companies to compete and hire workers.

Instead, South Korea will be able to exploit this trade agreement and make the limited market access we would have meaningless.

It is time that our free trade agreements increase market access to U.S. goods so that we're exporting goods—not jobs.

The American people are demanding a plan to make trade work.

It is time for Congress to meet the demands of the American people and take action to ensure a level playing field for our businesses and workers.

That is why I'm introducing the Reciprocal Market Access Act.

The Reciprocal Market Access Act would require the reduction or elimination of U.S. duties to be reciprocated by the nation with which we are entering into a trade pact.

In the event that a trading partner does not adhere to this requirement, the U.S. Trade Representative would be authorized to withdraw tariff concessions if a trading partner has failed to eliminate relevant tariff and non-tariff barriers.

This requirement will make sure that any type of barrier doesn't put American products at a disadvantage before we open our doors to American goods.

The U.S. should no longer acquiesce to demands to further open our market—already the most open market in the global economy—without gaining meaningful market access for American manufacturers in exchange.

In addition, this bill would instruct the International Trade Commission to assess the impact of a potential trade agreement on opportunities and barriers for U.S. products that will be affected by the trade agreement.

If Congress is committed to creating jobs and reducing the trade deficit, we've got to make sure we have the policies that put us on a level playing field with our trading partners.

If we are serious about standing up for workers, small business and manufacturers who continue to play be the rules, we need to pass this legislation.

It is time to take action to help rebuild the economic foundation of the middle class.

It is time we negotiate trade agreements that put American workers and American businesses first.

It is time to pass this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1711

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 ''Reciprocal Market Access Act of 2011''.

SEC. 2. PURPOSE.

The purpose of this Act is to require that United States trade negotiations achieve measurable results for United States businesses by ensuring that trade agreements result in expanded market access for United States exports and not solely the elimination of tariffs on goods imported into the United States.

SEC. 3. LIMITATION ON AUTHORITY TO REDUCE OR ELIMINATE RATES OF DUTY PURSUANT TO CERTAIN TRADE AGREEMENTS.

(a) LIMITATION.—Notwithstanding any other provision of law, on or after the date of the enactment of this Act, the President may not agree to a modification of an existing duty that would reduce or eliminate the bound or applied rate of such duty on any product in order to carry out a trade agreement entered into between the United States and a foreign country until the President transmits to Congress a certification described in subsection (b).

(b) CERTIFICATION.—A certification referred to in subsection (a) is a certification by the President that—

(1) the United States has obtained the reduction or elimination of tariff and nontariff barriers and policies and practices of the government of a foreign country described in subsection (a) with respect to United States exports of any product identified by United States domestic producers as having the same physical characteristics and uses as the product for which a modification of an existing duty is sought by the President as described in subsection (a); and

(2) a violation of any provision of the trade agreement described in subsection (a) relating to the matters described in paragraph (1)

is immediately enforceable in accordance with the provisions of section 4.

SEC. 4. ENFORCEMENT PROVISIONS.

(a) WITHDRAWAL OF TARIFF CONCESSIONS.—If the President does agree to a modification described in section 3(a), and the United States Trade Representative determines pursuant to subsection (c) that—

(1) a tariff or nontariff barrier or policy or practice of the government of a foreign country described in section 3(a) has not been reduced or eliminated, or

(2) a tariff or nontariff barrier or policy or practice of such government has been imposed or discovered,

the modification shall be withdrawn until such time as the United States Trade Representative submits to Congress a certification described in section 3(b)(1).

(b) INVESTIGATION.—

(1) IN GENERAL.—The United States Trade Representative shall initiate an investigation if an interested party files a petition with the United States Trade Representative which alleges the elements necessary for the withdrawal of the modification of an existing duty under subsection (a), and which is accompanied by information reasonably available to the petitioner supporting such allegations.

(2) INTERESTED PARTY DEFINED.—For purposes of paragraph (1), the term ''interested party'' means—

(A) a manufacturer, producer, or wholesaler in the United States of a domestic product that has the same physical characteristics and uses as the product for which a modification of an existing duty is sought;

(B) a certified union or recognized union or group of workers engaged in the manufacture, production, or wholesale in the United States of a domestic product that has the same physical characteristics and uses as the product for which a modification of an existing duty is sought;

(C) a trade or business association a majority of whose members manufacture, produce, or wholesale in the United States a domestic product that has the same physical characteristics and uses as the product for which a modification of an existing duty is sought; and

(D) a member of the Committee on Ways and Means of the House of Representatives or a member of the Committee on Finance of the Senate.

(c) DETERMINATION BY USTR.—Not later than 45 days after the date on which a petition is filed under subsection (b), the United States Trade Representative shall—

(1) determine whether the petition alleges the elements necessary for the withdrawal of the modification of an existing duty under subsection (a); and

(2) notify the petitioner of the determination under paragraph (1) and the reasons for the determination.

SEC. 5. MARKET ACCESS ASSESSMENT BY INTERNATIONAL TRADE COMMISSION.

(a) IN GENERAL.—The International Trade Commission shall conduct an assessment of the impact of each proposed trade agreement between the United States and a foreign country on tariff and nontariff barriers and policies and practices of the government of the foreign country with respect to United States exports of any product identified by United States domestic producers as having the same physical characteristics and uses as the product for which a modification of an existing duty is sought by the President as described in section 4(a).

(b) IDENTIFICATION.—In conducting the assessment under subsection (a), the International Trade Commission shall identify the tariff and nontariff barriers and policies and practices for such products that exist in the foreign country and the expected opportunities for exports from the United States to the foreign country if existing tariff and nontariff barriers and policies and practices are eliminated.

(c) CONSULTATION.—In conducting the assessment under subsection (a), the International Trade Commission shall, as appropriate, consult with and seek to obtain relevant documentation from United States domestic producers of products having the same physical characteristics and uses as the product for which a modification of an existing duty is sought by the President as described in section 4(a).

(d) REPORT.—Not later than 45 days before the date on which negotiations for a proposed trade agreement described in subsection (a) are initiated, the International Trade Commission shall submit to the United States Trade Representative, the Secretary of Commerce, and Congress a report on the proposed trade agreement that contains the assessment under subsection (a) conducted with respect to such proposed trade agreement. The report shall be submitted in unclassified form, but may contain a classified annex if necessary.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 293—CELEBRATING THE 10-YEAR COMMEMORATION OF THE UNDERGROUND RAILROAD MEMORIAL, COMPRISED OF THE GATEWAY TO FREEDOM MONUMENT IN DETROIT, MICHIGAN AND THE TOWER OF FREEDOM MONUMENT IN WINDSOR, ONTARIO, CANADA

Mr. LEVIN (for himself, Ms. STABENOW, Mr. BROWN of Ohio, Mr. CASEY, and Mr. KERRY) submitted the following resolution; which was considered and agreed to:

S. RES. 293

Whereas millions of Africans and their descendants were enslaved in the United States and the American colonies from 1619 through 1865;

Whereas Africans forced into slavery were unspeakably debased, humiliated, dehumanized, brutally torn from their families and loved ones, and subjected to the indignity of being stripped of their names and heritage;

Whereas tens of thousands of people of African descent silently escaped their chains to follow the perilous Underground Railroad northward towards freedom in Canada;

Whereas the Detroit River played a central role for these passengers of the Underground Railroad on their way to freedom;

Whereas, in October 2001, the City of Detroit, Michigan joined with Windsor and Essex County in Ontario, Canada to memorialize the courage of these freedom seekers with an international memorial to the Underground Railroad, comprising the Tower of Freedom Monument in Windsor and the Gateway to Freedom Monument in Detroit;

Whereas the deep roots that slaves, refugees, and immigrants who reached Canada from the United States created in Canadian society remain as tributes to the determination of their descendants to safeguard the history of the struggles and endurance of their forebears;

Whereas the observance of the 10-year commemoration of the Underground Railroad Memorial will be celebrated from October 19 through October 22, 2011;

Whereas the International Underground Railroad Monument Tenth Anniversary Planning Committee is pursuing the designation of an International Freedom Corridor and the nomination of the historic Detroit River as an International World Heritage Site;

Whereas the International Underground Railroad Monument Tenth Anniversary Planning Committee recognizes that a National Park Service special resources study may establish the national significance, suitability, and feasibility of an International Freedom Corridor;

Whereas the designation of an International Freedom Corridor would include the States of Michigan, Illinois, Ohio, Wisconsin, Missouri, Indiana, and Kentucky, the Detroit, Mississippi, and Ohio Rivers, which traverse portions of these States, and any other sites associated within this International Freedom Corridor;

Whereas a cooperative international partnership project is dedicated to education and research with the goal of promoting cross-border understanding as well as economic development and cultural heritage tourism;

Whereas, over the course of history, the United States has become a symbol of democracy and freedom around the world; and

Whereas the legacy of African Americans is interwoven with the fabric of democracy and freedom in the United States: Now, therefore, be it

Resolved, That the Senate celebrates the 10-year commemoration of the Underground Railroad Memorial, comprised of the Gateway to Freedom Monument in Detroit, Michigan and the Tower of Freedom Monument in Windsor, Ontario, Canada.

SENATE CONCURRENT RESOLUTION 30—SUPPORTING THE GOALS AND IDEALS OF SPINA BIFIDA AWARENESS MONTH

Mr. WICKER submitted the following concurrent resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. CON. RES. 30

Whereas according the Centers for Disease Control and Prevention, there are approximately 166,000 individuals living in the United States with a form of spina bifida, the United States most common permanent birth defect;

Whereas the risk of spina bifida can be reduced by up to 70 percent if women consume 400 micrograms of folic acid daily, before and during pregnancy;

Whereas there are 65,000,000 women of childbearing age in the United States, all of whom are potentially at risk of having a child with spina bifida;

Whereas 1,500 children are born each year with spina bifida;

Whereas, according to the Spina Bifida Association, spina bifida is a complicated condition, adversely impacting virtually every organ system and requiring multiple clinical specialists to provide lifelong comprehensive, quality medical and psychosocial care;

Whereas the National Spina Bifida Program, administered by the Centers for Disease Control and Prevention, exists to improve the health, well-being, and quality of life for the individuals and families affected by spina bifida through numerous programmatic components, including the National Spina Bifida Patient Registry and critical quality of life research in spina bifida.

Whereas the National Spina Bifida Patient Registry helps to improve the quality of care, reduce morbidity and mortality from spina bifida, and increase the efficiency and decrease the cost of care by supporting the

collection of longitudinal-treatment data, developing quality measures and treatment standards of care and best practices, identifying ''centers of excellence'' in spina bifida, evaluating both the clinical and cost-effectiveness of treatment of spina bifida, and exchanging evidence-based information among health-care providers across the United States;

Whereas the Spina Bifida Association is the only national voluntary health agency working for people with spina bifida and their families through education, advocacy, research, and service; and

Whereas October is designated as National Spina Bifida Awareness Month to help increase awareness and the prevention of spina bifida, as well as enhancing the quality of life of persons living with spina bifida: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) supports the goals and ideals of National Spina Bifida Awareness Month;

(2) recognizes the importance of highlighting the occurrence of spina bifida, bringing to light the struggles and successes of those who live with spina bifida, and advancing efforts to decrease the incidence of spina bifida;

(3) supports the ongoing development of the National Spina Bifida Patient Registry to improve lives through research and to improve treatments for both children and adults;

(4) recognizes that there is a continued need for a commitment of resources for efforts to reduce and prevent disabling birth defects like spina bifida; and

(5) commends the excellent work of the Spina Bifida Association to educate, support, and provide hope for people with spina bifida and their families.

SENATE CONCURRENT RESOLUTION 31—DIRECTING THE SECRETARY OF THE SENATE TO MAKE A CORRECTION IN THE ENROLLMENT OF S. 1280

Mr. ISAKSON submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 31

Resolved by the Senate (the House of Representatives concurring), That, in the enrollment of the bill (S. 1280) to amend the Peace Corps Act to require sexual assault risk-reduction and response training, the development of a sexual assault policy, the establishment of an Office of Victim Advocacy, the establishment of a Sexual Assault Advisory Council, and for other purposes, the Secretary of the Senate shall make the following corrections:

Amend section 8C of the Peace Corps Act, in the quoted material in section 2 of the bill, by adding at the end the following new subsection:

''(e) SUNSET.—This section shall cease to be effective on October 1, 2018.''.

Amend section 8D of the Peace Corps Act, in the quoted material in section 2 of the bill, by adding at the end the following new subsection:

''(g) SUNSET.—This section shall cease to be effective on October 1, 2018.''.

Amend section 8E of the Peace Corps Act, in the quoted material in section 2 of the bill—

(1) in subsection (c), by striking ''The President shall annually conduct'' and inserting ''Annually through September 30, 2018, the President shall conduct'';

(2) in subsection (d)—

(A) in subparagraph (A), by striking ''a biennial report'' and inserting ''a report, not later than one year after the date of the enactment of this section, and biennially through September 30, 2018,''; and

(B) in subparagraph (B), by striking ''not later than two years after the date of the enactment of this section and every three years thereafter'' and inserting ''not later than two years and five years after the date of the enactment of this section''; and

(3) by adding at the end the following new subsection:

''(e) PORTFOLIO REVIEWS.—

''(1) IN GENERAL.—The President shall, at least once every 3 years, perform a review to evaluate the allocation and delivery of resources across the countries the Peace Corps serves or is considering for service. Such portfolio reviews shall at a minimum include the following with respect to each such country:

''(A) An evaluation of the country's commitment to the Peace Corps program.

''(B) An analysis of the safety and security of volunteers.

''(C) An evaluation of the country's need for assistance.

''(D) An analysis of country program costs.

''(E) An evaluation of the effectiveness of management of each post within a country.

''(F) An evaluation of the country's congruence with the Peace Corp's mission and strategic priorities.

''(2) BRIEFING.—Upon request of the Chairman and Ranking Member of the Committee on Foreign Relations of the Senate or the Committee on Foreign Affairs of the House of Representatives, the President shall brief such committees on each portfolio review required under paragraph (1). If requested, each such briefing shall discuss performance measures and sources of data used (such as project status reports, volunteer surveys, impact studies, reports of Inspector General of the Peace Corps, and any relevant external sources) in making the findings and conclusions in such review.''.

Amend section 8I(a) of the Peace Corps Act, in the quoted material in section 2, by inserting ''through September 30, 2018,'' after ''annually''.

Strike section 8.

Redesignate sections 9 and 10 as sections 8 and 9, respectively.

Strike section 11.

AMENDMENTS SUBMITTED AND PROPOSED

SA 738. Mr. INOUYE submitted an amendment intended to be proposed by him to the bill H.R. 2112, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2012, and for other purposes; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 738. Mr. INOUYE submitted an amendment intended to be proposed by him to the bill H.R. 2112, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2012, and for other purposes; which was ordered to lie on the table; as follows:

Strike out all after the enacting clause and insert the following:

DIVISION A—AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES

The following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2012, and for other purposes, namely:

TITLE I

AGRICULTURAL PROGRAMS

PRODUCTION, PROCESSING AND MARKETING

OFFICE OF THE SECRETARY

For necessary expenses of the Office of the Secretary of Agriculture, $4,798,000: *Provided*, That not to exceed $11,000 of this amount shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Secretary.

OFFICE OF TRIBAL RELATIONS

For necessary expenses of the Office of Tribal Relations, $473,000, to support communication and consultation activities with Federally Recognized Tribes, as well as other requirements established by law.

EXECUTIVE OPERATIONS

OFFICE OF THE CHIEF ECONOMIST

For necessary expenses of the Office of the Chief Economist, $11,408,000.

NATIONAL APPEALS DIVISION

For necessary expenses of the National Appeals Division, $13,514,000.

OFFICE OF BUDGET AND PROGRAM ANALYSIS

For necessary expenses of the Office of Budget and Program Analysis, $8,946,000.

OFFICE OF HOMELAND SECURITY AND EMERGENCY COORDINATION

For necessary expenses of the Office of Homeland Security and Emergency Coordination, $1,421,000.

OFFICE OF ADVOCACY AND OUTREACH

For necessary expenses of the Office of Advocacy and Outreach, $1,351,000.

OFFICE OF THE CHIEF INFORMATION OFFICER

For necessary expenses of the Office of the Chief Information Officer, $36,031,000.

OFFICE OF THE CHIEF FINANCIAL OFFICER

For necessary expenses of the Office of the Chief Financial Officer, $5,935,000: *Provided*, That no funds made available by this appropriation may be obligated for FAIR Act or Circular A–76 activities until the Secretary has submitted to the Committees on Appropriations of both Houses of Congress and the Committee on Oversight and Government Reform of the House of Representatives a report on the Department's contracting out policies, including agency budgets for contracting out.

OFFICE OF THE ASSISTANT SECRETARY FOR CIVIL RIGHTS

For necessary expenses of the Office of the Assistant Secretary for Civil Rights, $848,000.

OFFICE OF CIVIL RIGHTS

For necessary expenses of the Office of Civil Rights, $21,558,000.

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

For necessary expenses of the Office of the Assistant Secretary for Administration, $764,000.

AGRICULTURE BUILDINGS AND FACILITIES AND RENTAL PAYMENTS

(INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92–313, including authorities pursuant to the 1984 delegation of authority from the Administrator of General Services to the Department of Agriculture under 40 U.S.C. 486, for programs and activities of the Department which are included in this Act, and for alterations and other actions needed for the Department and its agencies to consolidate unneeded space

into configurations suitable for release to the Administrator of General Services, and for the operation, maintenance, improvement, and repair of Agriculture buildings and facilities, and for related costs, $230,416,000, to remain available until expended, of which $164,470,000 shall be available for payments to the General Services Administration for rent; of which $13,800,000 for payment to the Department of Homeland Security for building security activities; and of which $52,146,000 for buildings operations and maintenance expenses: *Provided*, That the Secretary may use unobligated prior year balances of an agency or office that are no longer available for new obligation to cover shortfalls incurred in prior year rental payments for such agency or office: *Provided further*, That the Secretary is authorized to transfer funds from a Departmental agency to this account to recover the full cost of the space and security expenses of that agency that are funded by this account when the actual costs exceed the agency estimate which will be available for the activities and payments described herein.

HAZARDOUS MATERIALS MANAGEMENT

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Department of Agriculture, to comply with the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 et seq.) and the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.), $3,792,000, to remain available until expended: *Provided*, That appropriations and funds available herein to the Department for Hazardous Materials Management may be transferred to any agency of the Department for its use in meeting all requirements pursuant to the above Acts on Federal and non-Federal lands.

DEPARTMENTAL ADMINISTRATION

(INCLUDING TRANSFERS OF FUNDS)

For Departmental Administration, $28,165,000, to provide for necessary expenses for management support services to offices of the Department and for general administration, security, repairs and alterations, and other miscellaneous supplies and expenses not otherwise provided for and necessary for the practical and efficient work of the Department: *Provided*, That this appropriation shall be reimbursed from applicable appropriations in this Act for travel expenses incident to the holding of hearings as required by 5 U.S.C. 551–558.

OFFICE OF THE ASSISTANT SECRETARY FOR CONGRESSIONAL RELATIONS

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Office of the Assistant Secretary for Congressional Relations to carry out the programs funded by this Act, including programs involving intergovernmental affairs and liaison within the executive branch, $3,676,000: *Provided*, That these funds may be transferred to agencies of the Department of Agriculture funded by this Act to maintain personnel at the agency level: *Provided further*, That no funds made available by this appropriation may be obligated after 30 days from the date of enactment of this Act, unless the Secretary has notified the Committees on Appropriations of both Houses of Congress on the allocation of these funds by USDA agency: *Provided further*, That no other funds appropriated to the Department by this Act shall be available to the Department for support of activities of congressional relations.

OFFICE OF COMMUNICATIONS

For necessary expenses of the Office of Communications, $8,105,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General, including employment pursuant to the Inspector General Act of 1978, $84,121,000, including such sums as may be necessary for contracting and other arrangements with public agencies and private persons pursuant to section 6(a)(9) of the Inspector General Act of 1978, and including not to exceed $125,000 for certain confidential operational expenses, including the payment of informants, to be expended under the direction of the Inspector General pursuant to Public Law 95–452 and section 1337 of Public Law 97–98.

OFFICE OF THE GENERAL COUNSEL

For necessary expenses of the Office of the General Counsel, $39,345,000.

OFFICE OF THE UNDER SECRETARY FOR RESEARCH, EDUCATION AND ECONOMICS

For necessary expenses of the Office of the Under Secretary for Research, Education and Economics, $848,000.

ECONOMIC RESEARCH SERVICE

For necessary expenses of the Economic Research Service, $77,723,000.

NATIONAL AGRICULTURAL STATISTICS SERVICE

For necessary expenses of the National Agricultural Statistics Service, $152,616,000, of which up to $41,639,000 shall be available until expended for the Census of Agriculture.

AGRICULTURAL RESEARCH SERVICE

SALARIES AND EXPENSES

For necessary expenses of the Agricultural Research Service and for acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100, and for land exchanges where the lands exchanged shall be of equal value or shall be equalized by a payment of money to the grantor which shall not exceed 25 percent of the total value of the land or interests transferred out of Federal ownership, $1,094,647,000: *Provided*, That appropriations hereunder shall be available for the operation and maintenance of aircraft and the purchase of not to exceed one for replacement only: *Provided further*, That appropriations hereunder shall be available pursuant to 7 U.S.C. 2250 for the construction, alteration, and repair of buildings and improvements, but unless otherwise provided, the cost of constructing any one building shall not exceed $375,000, except for headhouses or greenhouses which shall each be limited to $1,200,000, and except for 10 buildings to be constructed or improved at a cost not to exceed $750,000 each, and the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building or $375,000, whichever is greater: *Provided further*, That the limitations on alterations contained in this Act shall not apply to modernization or replacement of existing facilities at Beltsville, Maryland: *Provided further*, That appropriations hereunder shall be available for granting easements at the Beltsville Agricultural Research Center: *Provided further*, That the foregoing limitations shall not apply to replacement of buildings needed to carry out the Act of April 24, 1948 (21 U.S.C. 113a): *Provided further*, That funds may be received from any State, other political subdivision, organization, or individual for the purpose of establishing or operating any research facility or research project of the Agricultural Research Service, as authorized by law.

NATIONAL INSTITUTE OF FOOD AND AGRICULTURE

RESEARCH AND EDUCATION ACTIVITIES

For payments to agricultural experiment stations, for cooperative forestry and other research, for facilities, and for other expenses, $709,825,000, as follows: to carry out the provisions of the Hatch Act of 1887 (7 U.S.C. 361a–i), $236,334,000; for grants for cooperative forestry research (16 U.S.C. 582a through a–7), $32,934,000; for payments to eligible institutions (7 U.S.C. 3222), $50,898,000, provided that each institution receives no less than $1,000,000; for special grants (7 U.S.C. 450i(c)), $4,181,000; for competitive grants on improved pest control (7 U.S.C. 450i(c)), $15,830,000; for competitive grants (7 U.S.C. 450(i)(b)), $265,987,000, to remain available until expended; for the support of animal health and disease programs (7 U.S.C. 3195), $2,944,000; for supplemental and alternative crops and products (7 U.S.C. 3319d), $833,000; for grants for research pursuant to the Critical Agricultural Materials Act (7 U.S.C. 178 et seq.), $1,081,000, to remain available until expended; for the 1994 research grants program for 1994 institutions pursuant to section 536 of Public Law 103–382 (7 U.S.C. 301 note), $1,801,000, to remain available until expended; for rangeland research grants (7 U.S.C. 3333), $961,000; for higher education graduate fellowship grants (7 U.S.C. 3152(b)(6)), $3,774,000, to remain available until expended (7 U.S.C. 2209b); for a program pursuant to section 1415A of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3151a), $4,790,000, to remain available until expended; for higher education challenge grants (7 U.S.C. 3152(b)(1)), $5,530,000; for a higher education multicultural scholars program (7 U.S.C. 3152(b)(5)), $1,239,000, to remain available until expended (7 U.S.C. 2209b); for an education grants program for Hispanic-serving Institutions (7 U.S.C. 3241), $9,219,000; for competitive grants for the purpose of carrying out all provisions of 7 U.S.C. 3156 to individual eligible institutions or consortia of eligible institutions in Alaska and in Hawaii, with funds awarded equally to each of the States of Alaska and Hawaii, $3,194,000; for a secondary agriculture education program and 2-year post-secondary education, (7 U.S.C. 3152(j)), $981,000; for aquaculture grants (7 U.S.C. 3322), $3,920,000; for sustainable agriculture research and education (7 U.S.C. 5811), $14,471,000; for a program of capacity building grants (7 U.S.C. 3152(b)(4)) to institutions eligible to receive funds under 7 U.S.C. 3221 and 3222, $19,336,000, to remain available until expended (7 U.S.C. 2209b); for capacity building grants for non-land-grant colleges of agriculture (7 U.S.C. 3319i), $5,000,000, to remain available until expended; for competitive grants for policy research (7 U.S.C. 3155), $4,000,000, which shall be obligated within 120 days of the enactment of this Act; for payments to the 1994 Institutions pursuant to section 534(a)(1) of Public Law 103–382, $3,335,000; for resident instruction grants for insular areas under section 1491 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3363), $898,000; for distance education grants for insular areas under section 1490 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3362), $749,000; for a new era rural technology program pursuant to section 1473E of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3319e), $856,000; for a competitive grants program for farm business management and benchmarking (7 U.S.C. 5925f), $1,497,000; for a competitive grants program regarding biobased energy (7 U.S.C. 8114), $2,246,000; and for necessary expenses of Research and Education Activities, $11,006,000, of which $2,645,000 for the Research, Education, and Economics Information System and $2,089,000 for the Electronic Grants Information System, are to remain available until expended.

NATIVE AMERICAN INSTITUTIONS ENDOWMENT FUND

For the Native American Institutions Endowment Fund authorized by Public Law

103–382 (7 U.S.C. 301 note), $11,880,000, to remain available until expended.

HISPANIC-SERVING AGRICULTURAL COLLEGES AND UNIVERSITIES ENDOWMENT FUND

For the Hispanic-Serving Agricultural Colleges and Universities Endowment Fund under section 1456 (7 U.S.C. 3243) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, $10,000,000, to remain available until expended.

EXTENSION ACTIVITIES

For payments to States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, Micronesia, the Northern Marianas, and American Samoa, $478,179,000, as follows: payments for cooperative extension work under the Smith-Lever Act, to be distributed under sections 3(b) and 3(c) of said Act, and under section 208(c) of Public Law 93–471, for retirement and employees' compensation costs for extension agents, $295,800,000; payments for extension work at the 1994 Institutions under the Smith-Lever Act (7 U.S.C. 343(b)(3)), $4,312,000; payments for the nutrition and family education program for low-income areas under section 3(d) of the Act, $67,934,000; payments for the pest management program under section 3(d) of the Act, $9,918,000; payments for the farm safety program under section 3(d) of the Act, $4,610,000; payments for New Technologies for Ag Extension under section 3(d) of the Act, $1,660,000; payments to upgrade research, extension, and teaching facilities at institutions eligible to receive funds under 7 U.S.C. 3221 and 3222, $19,730,000, to remain available until expended; payments for youth-at-risk programs under section 3(d) of the Smith-Lever Act, $7,975,000; for youth farm safety education and certification extension grants, to be awarded competitively under section 3(d) of the Act, $461,000; payments for carrying out the provisions of the Renewable Resources Extension Act of 1978 (16 U.S.C. 1671 et seq.), $3,929,000; payments for the federally recognized Tribes Extension Program under section 3(d) of the Smith-Lever Act, $3,039,000; payments for sustainable agriculture programs under section 3(d) of the Act, $4,696,000; payments for rural health and safety education as authorized by section 502(i) of Public Law 92–419 (7 U.S.C. 2662(i)), $1,735,000; payments for cooperative extension work by eligible institutions (7 U.S.C. 3221), $42,592,000, provided that each institution receives no less than $1,000,000; payments to carry out the food animal residue avoidance database program as authorized by 7 U.S.C. 7642, $1,000,000; payments to carry out section 1672(e)(49) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925), as amended, $400,000; and for necessary expenses of Extension Activities, $8,388,000.

INTEGRATED ACTIVITIES

For the integrated research, education, and extension grants programs, including necessary administrative expenses, $25,948,000, as follows: for competitive grants programs authorized under section 406 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7626), $17,964,000, including $8,982,000 for the water quality program, $2,994,000 for regional pest management centers, $1,996,000 for the methyl bromide transition program, and $3,992,000 for the organic transition program; for a competitive international science and education grants program authorized under section 1459A of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3292b), to remain available until expended, $998,000; $998,000 for the regional rural development centers program; and $5,988,000 for the Food and Agriculture Defense Initiative authorized under section 1484 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, to remain available until September 30, 2013.

OFFICE OF THE UNDER SECRETARY FOR MARKETING AND REGULATORY PROGRAMS

For necessary expenses of the Office of the Under Secretary for Marketing and Regulatory Programs, $848,000.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Animal and Plant Health Inspection Service, including up to $30,000 for representation allowances and for expenses pursuant to the Foreign Service Act of 1980 (22 U.S.C. 4085), $820,110,000, of which $1,000,000, to be available until expended, shall be available for the control of outbreaks of insects, plant diseases, animal diseases and for control of pest animals and birds (''contingency fund'') to the extent necessary to meet emergency conditions; of which $17,848,000, to remain available until expended, shall be used for the cotton pests program for cost share purposes or for debt retirement for active eradication zones; of which $7,000,000, to remain available until expended, shall be for Animal Disease Traceability; of which $891,000 shall be for activities under the authority of the Horse Protection Act of 1970, as amended (15 U.S.C. 1831); of which $48,733,000, to remain available until expended, shall be used to support avian health; of which $4,474,000, to remain available until expended, shall be for information technology infrastructure; of which $153,950,000, to remain available until expended, shall be for specialty crop pests; of which $9,068,000, to remain available until expended, shall be for field crop and rangeland ecosystem pests; of which $58,962,000, to remain available until expended, shall be for tree and wood pests; of which $3,568,000, to remain available until expended, shall be for the National Veterinary Stockpile; of which up to $1,500,000, to remain available until expended, shall be for the scrapie program for indemnities; of which $1,000,000, to remain available until expended, shall be for wildlife services methods development; of which $1,500,000, to remain available until expended, shall be for the wildlife services damage management program for aviation safety; and of which $5,000,000, to remain available until expended, shall be for the screwworm program: *Provided further*, That no funds shall be used to formulate or administer a brucellosis eradication program for the current fiscal year that does not require minimum matching by the States of at least 40 percent: *Provided further*, That this appropriation shall be available for the operation and maintenance of aircraft and the purchase of not to exceed four, of which two shall be for replacement only: *Provided further*, That, in addition, in emergencies which threaten any segment of the agricultural production industry of this country, the Secretary may transfer from other appropriations or funds available to the agencies or corporations of the Department such sums as may be deemed necessary, to be available only in such emergencies for the arrest and eradication of contagious or infectious disease or pests of animals, poultry, or plants, and for expenses in accordance with sections 10411 and 10417 of the Animal Health Protection Act (7 U.S.C. 8310 and 8316) and sections 431 and 442 of the Plant Protection Act (7 U.S.C. 7751 and 7772), and any unexpended balances of funds transferred for such emergency purposes in the preceding fiscal year shall be merged with such transferred amounts: *Provided further*, That appropriations hereunder shall be available pursuant to law (7 U.S.C. 2250) for the repair and alteration of leased buildings and improvements, but unless otherwise provided the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

In fiscal year 2012, the agency is authorized to collect fees to cover the total costs of providing technical assistance, goods, or services requested by States, other political subdivisions, domestic and international organizations, foreign governments, or individuals, provided that such fees are structured such that any entity's liability for such fees is reasonably based on the technical assistance, goods, or services provided to the entity by the agency, and such fees shall be reimbursed to this account, to remain available until expended, without further appropriation, for providing such assistance, goods, or services.

BUILDINGS AND FACILITIES

For plans, construction, repair, preventive maintenance, environmental support, improvement, extension, alteration, and purchase of fixed equipment or facilities, as authorized by 7 U.S.C. 2250, and acquisition of land as authorized by 7 U.S.C. 428a, $3,176,000, to remain available until expended.

AGRICULTURAL MARKETING SERVICE

MARKETING SERVICES

For necessary expenses of the Agricultural Marketing Service, $82,211,000: *Provided*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

Fees may be collected for the cost of standardization activities, as established by regulation pursuant to law (31 U.S.C. 9701).

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $62,101,000 (from fees collected) shall be obligated during the current fiscal year for administrative expenses: *Provided*, That if crop size is understated and/or other uncontrollable events occur, the agency may exceed this limitation by up to 10 percent with notification to the Committees on Appropriations of both Houses of Congress.

FUNDS FOR STRENGTHENING MARKETS, INCOME, AND SUPPLY (SECTION 32)

(INCLUDING TRANSFERS OF FUNDS)

Funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), shall be used only for commodity program expenses as authorized therein, and other related operating expenses, except for: (1) transfers to the Department of Commerce as authorized by the Fish and Wildlife Act of August 8, 1956; (2) transfers otherwise provided in this Act; and (3) not more than $20,056,000 for formulation and administration of marketing agreements and orders pursuant to the Agricultural Marketing Agreement Act of 1937 and the Agricultural Act of 1961.

PAYMENTS TO STATES AND POSSESSIONS

For payments to departments of agriculture, bureaus and departments of markets, and similar agencies for marketing activities under section 204(b) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1623(b)), $1,198,000.

GRAIN INSPECTION, PACKERS AND STOCKYARDS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Grain Inspection, Packers and Stockyards Administration, $38,248,000: *Provided*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of

buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

LIMITATION ON INSPECTION AND WEIGHING SERVICES EXPENSES

Not to exceed $50,000,000 (from fees collected) shall be obligated during the current fiscal year for inspection and weighing services: *Provided*, That if grain export activities require additional supervision and oversight, or other uncontrollable factors occur, this limitation may be exceeded by up to 10 percent with notification to the Committees on Appropriations of both Houses of Congress.

OFFICE OF THE UNDER SECRETARY FOR FOOD SAFETY

For necessary expenses of the Office of the Under Secretary for Food Safety, $770,000.

FOOD SAFETY AND INSPECTION SERVICE

For necessary expenses to carry out services authorized by the Federal Meat Inspection Act, the Poultry Products Inspection Act, and the Egg Products Inspection Act, including not to exceed $50,000 for representation allowances and for expenses pursuant to section 8 of the Act approved August 3, 1956 (7 U.S.C. 1766), $1,006,503,000; and in addition, $1,000,000 may be credited to this account from fees collected for the cost of laboratory accreditation as authorized by section 1327 of the Food, Agriculture, Conservation and Trade Act of 1990 (7 U.S.C. 138f): *Provided*, That funds provided for the Public Health Data Communication Infrastructure system shall remain available until expended: *Provided further*, That no fewer than 148 full-time equivalent positions shall be employed during fiscal year 2012 for purposes dedicated solely to inspections and enforcement related to the Humane Methods of Slaughter Act: *Provided further*, That the Food Safety and Inspection Service shall continue implementation of section 11016 of Public Law 110–246: *Provided further*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

OFFICE OF THE UNDER SECRETARY FOR FARM AND FOREIGN AGRICULTURAL SERVICES

For necessary expenses of the Office of the Under Secretary for Farm and Foreign Agricultural Services, $848,000.

FARM SERVICE AGENCY

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Farm Service Agency, $1,181,781,000: *Provided*, That the Secretary is authorized to use the services, facilities, and authorities (but not the funds) of the Commodity Credit Corporation to make program payments for all programs administered by the Agency: *Provided further*, That other funds made available to the Agency for authorized activities may be advanced to and merged with this account: *Provided further*, That funds made available to county committees shall remain available until expended.

STATE MEDIATION GRANTS

For grants pursuant to section 502(b) of the Agricultural Credit Act of 1987, as amended (7 U.S.C. 5101–5106), $3,759,000.

GRASSROOTS SOURCE WATER PROTECTION PROGRAM

For necessary expenses to carry out wellhead or groundwater protection activities under section 1240O of the Food Security Act of 1985 (16 U.S.C. 3839bb–2), $3,817,000, to remain available until expended.

DAIRY INDEMNITY PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses involved in making indemnity payments to dairy farmers and manufacturers of dairy products under a dairy indemnity program, such sums as may be necessary, to remain available until expended: *Provided*, That such program is carried out by the Secretary in the same manner as the dairy indemnity program described in the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106–387, 114 Stat. 1549A–12).

AGRICULTURAL CREDIT INSURANCE FUND PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For gross obligations for the principal amount of direct and guaranteed farm ownership (7 U.S.C. 1922 et seq.) and operating (7 U.S.C. 1941 et seq.) loans, Indian tribe land acquisition loans (25 U.S.C. 488), boll weevil loans (7 U.S.C. 1989), guaranteed conservation loans (7 U.S.C. 1924 et seq.), and Indian highly fractionated land loans (25 U.S.C. 488), to be available from funds in the Agricultural Credit Insurance Fund, as follows: farm ownership loans, $1,975,000,000, of which $1,500,000,000 shall be for unsubsidized guaranteed loans and $475,000,000 shall be for direct loans; operating loans, $2,519,982,000, of which $1,500,000,000 shall be for unsubsidized guaranteed loans, and $1,019,982,000 shall be for direct loans; Indian tribe land acquisition loans, $2,000,000; guaranteed conservation loans, $150,000,000; Indian highly fractionated land loans, $10,000,000; and for boll weevil eradication program loans, $100,000,000: *Provided*, That the Secretary shall deem the pink bollworm to be a boll weevil for the purpose of boll weevil eradication program loans.

For the cost of direct and guaranteed loans, including the cost of modifying loans as defined in section 502 of the Congressional Budget Act of 1974, as follows: direct farm ownership loans, $22,800,000; operating loans, $83,525,000, of which $26,100,000 shall be for unsubsidized guaranteed loans, and $57,425,000 shall be for direct loans; and Indian highly fractionated land loans, $193,000.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $297,237,000, of which $289,728,000 shall be transferred to and merged with the appropriation for ''Farm Service Agency, Salaries and Expenses''.

Funds appropriated by this Act to the Agricultural Credit Insurance Fund Program Account for farm ownership, operating and conservation direct loans and guaranteed loans may be transferred among these programs: *Provided*, That the Committees on Appropriations of both Houses of Congress are notified at least 15 days in advance of any transfer.

RISK MANAGEMENT AGENCY

For necessary expenses of the Risk Management Agency, $74,900,000: *Provided*, That the funds made available under section 522(e) of the Federal Crop Insurance Act (7 U.S.C. 1522(e)) may be used for the Common Information Management System: *Provided further*, That not to exceed $1,000 shall be available for official reception and representation expenses, as authorized by 7 U.S.C. 1506(i).

CORPORATIONS

The following corporations and agencies are hereby authorized to make expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for such corporation or agency, except as hereinafter provided.

FEDERAL CROP INSURANCE CORPORATION FUND

For payments as authorized by section 516 of the Federal Crop Insurance Act (7 U.S.C. 1516), such sums as may be necessary, to remain available until expended.

COMMODITY CREDIT CORPORATION FUND

REIMBURSEMENT FOR NET REALIZED LOSSES

(INCLUDING TRANSFERS OF FUNDS)

For the current fiscal year, such sums as may be necessary to reimburse the Commodity Credit Corporation for net realized losses sustained, but not previously reimbursed, pursuant to section 2 of the Act of August 17, 1961 (15 U.S.C. 713a–11): *Provided*, That of the funds available to the Commodity Credit Corporation under section 11 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714i) for the conduct of its business with the Foreign Agricultural Service, up to $5,000,000 may be transferred to and used by the Foreign Agricultural Service for information resource management activities of the Foreign Agricultural Service that are not related to Commodity Credit Corporation business.

HAZARDOUS WASTE MANAGEMENT

(LIMITATION ON EXPENSES)

For the current fiscal year, the Commodity Credit Corporation shall not expend more than $5,000,000 for site investigation and cleanup expenses, and operations and maintenance expenses to comply with the requirement of section 107(g) of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9607(g)), and section 6001 of the Resource Conservation and Recovery Act (42 U.S.C. 6961).

TITLE II

CONSERVATION PROGRAMS

OFFICE OF THE UNDER SECRETARY FOR NATURAL RESOURCES AND ENVIRONMENT

For necessary expenses of the Office of the Under Secretary for Natural Resources and Environment, $848,000.

NATURAL RESOURCES CONSERVATION SERVICE

CONSERVATION OPERATIONS

For necessary expenses for carrying out the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–f), including preparation of conservation plans and establishment of measures to conserve soil and water (including farm irrigation and land drainage and such special measures for soil and water management as may be necessary to prevent floods and the siltation of reservoirs and to control agricultural related pollutants); operation of conservation plant materials centers; classification and mapping of soil; dissemination of information; acquisition of lands, water, and interests therein for use in the plant materials program by donation, exchange, or purchase at a nominal cost not to exceed $100 pursuant to the Act of August 3, 1956 (7 U.S.C. 428a); purchase and erection or alteration or improvement of permanent and temporary buildings; and operation and maintenance of aircraft, $828,159,000, to remain available until September 30, 2013: *Provided*, That appropriations hereunder shall be available pursuant to 7 U.S.C. 2250 for construction and improvement of buildings and public improvements at plant materials centers, except that the cost of alterations and improvements to other buildings and other public improvements shall not exceed $250,000: *Provided further*, That when buildings or other structures are erected on non-Federal land, that the right to use such land is obtained as provided in 7 U.S.C. 2250a.

TITLE III

RURAL DEVELOPMENT PROGRAMS

OFFICE OF THE UNDER SECRETARY FOR RURAL DEVELOPMENT

For necessary expenses of the Office of the Under Secretary for Rural Development, $848,000.

RURAL DEVELOPMENT SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses for carrying out the administration and implementation of programs in the Rural Development mission area, including activities with institutions concerning the development and operation of agricultural cooperatives; and for cooperative agreements; $182,023,000: *Provided*, That notwithstanding any other provision of law, funds appropriated under this section may be used for advertising and promotional activities that support the Rural Development mission area: *Provided further*, That not more than $5,000 may be expended to provide modest nonmonetary awards to non-USDA employees: *Provided further*, That any balances available from prior years for the Rural Utilities Service, Rural Housing Service, and the Rural Business—Cooperative Service salaries and expenses accounts shall be transferred to and merged with this appropriation.

RURAL HOUSING SERVICE

RURAL HOUSING INSURANCE FUND PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For gross obligations for the principal amount of direct and guaranteed loans as authorized by title V of the Housing Act of 1949, to be available from funds in the rural housing insurance fund, as follows: $24,900,000,000 for loans to section 502 borrowers, of which $900,000,000 shall be for direct loans, and of which $24,000,000,000 shall be for unsubsidized guaranteed loans; $10,000,000 for section 504 housing repair loans; $64,478,000 for section 515 rental housing; $130,000,000 for section 538 guaranteed multi-family housing loans; $10,000,000 for credit sales of single family housing acquired property; and $5,000,000 for section 523 self-help housing land development loans.

For the cost of direct and guaranteed loans, including the cost of modifying loans, as defined in section 502 of the Congressional Budget Act of 1974, as follows: section 502 loans, $42,570,000 shall be for direct loans; section 504 housing repair loans, $1,421,000; and repair, rehabilitation, and new construction of section 515 rental housing, $22,000,000: *Provided*, That hereafter, the Secretary may charge a guarantee fee of up to 4 percent on section 502 guaranteed loans: *Provided further*, That to support the loan program level for section 538 guaranteed loans made available under this heading the Secretary may charge or adjust any fees to cover the projected cost of such loan guarantees pursuant to the provisions of the Credit Reform Act of 1990 (2 U.S.C. 661 et seq.), and the interest on such loans may not be subsidized: *Provided further*, That of the total amount appropriated in this paragraph, the amount equal to the amount of Rural Housing Insurance Fund Program Account funds allocated by the Secretary for Rural Economic Area Partnership Zones for the fiscal year 2011, shall be available through June 30, 2012, for communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones: *Provided further*, That any balances for a demonstration program for the preservation and revitalization of the section 515 multi-family rental housing properties as authorized by Public Law 109–97, Public Law 110–5, and Public Law 111–80 shall be transferred to and merged with the ''Rural Housing Service, Multi-family Housing Revitalization Program Account''.

In addition, for the cost of direct loans, grants, and contracts, as authorized by 42 U.S.C. 1484 and 1486, $16,000,000, to remain available until expended, for direct farm labor housing loans and domestic farm labor housing grants and contracts: *Provided*, That any balances available for the Farm Labor Program Account shall be transferred and merged with this account.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $430,800,000 shall be transferred to and merged with the appropriation for ''Rural Development, Salaries and Expenses''.

RENTAL ASSISTANCE PROGRAM

For rental assistance agreements entered into or renewed pursuant to the authority under section 521(a)(2) or agreements entered into in lieu of debt forgiveness or payments for eligible households as authorized by section 502(c)(5)(D) of the Housing Act of 1949, $904,653,000; and, in addition, such sums as may be necessary, as authorized by section 521(c) of the Act, to liquidate debt incurred prior to fiscal year 1992 to carry out the rental assistance program under section 521(a)(2) of the Act: *Provided*, That of this amount not less than $2,000,000 is available for newly constructed units financed by section 515 of the Housing Act of 1949, and not less than $2,000,000 is for newly constructed units financed under sections 514 and 516 of the Housing Act of 1949: *Provided further*, That rental assistance agreements entered into or renewed during the current fiscal year shall be funded for a 1-year period: *Provided further*, That any unexpended balances remaining at the end of such 1-year agreements may be transferred and used for the purposes of any debt reduction; maintenance, repair, or rehabilitation of any existing projects; preservation; and rental assistance activities authorized under title V of the Act: *Provided further*, That rental assistance provided under agreements entered into prior to fiscal year 2012 for a farm labor multi-family housing project financed under section 514 or 516 of the Act may not be recaptured for use in another project until such assistance has remained unused for a period of 12 consecutive months, if such project has a waiting list of tenants seeking such assistance or the project has rental assistance eligible tenants who are not receiving such assistance: *Provided further*, That such recaptured rental assistance shall, to the extent practicable, be applied to another farm labor multifamily housing project financed under section 514 or 516 of the Act.

MULTI-FAMILY HOUSING REVITALIZATION PROGRAM ACCOUNT

For the rural housing voucher program as authorized under section 542 of the Housing Act of 1949, but notwithstanding subsection (b) of such section, and for additional costs to conduct a demonstration program for the preservation and revitalization of multi-family rental housing properties described in this paragraph, $13,000,000, to remain available until expended: *Provided*, That of the funds made available under this heading, $11,000,000, shall be available for rural housing vouchers to any low-income household (including those not receiving rental assistance) residing in a property financed with a section 515 loan which has been prepaid after September 30, 2005: *Provided further*, That the amount of such voucher shall be the difference between comparable market rent for the section 515 unit and the tenant paid rent for such unit: *Provided further*, That funds made available for such vouchers shall be subject to the availability of annual appropriations: *Provided further*, That the Secretary shall, to the maximum extent practicable, administer such vouchers with current regulations and administrative guidance applicable to section 8 housing vouchers administered by the Secretary of the Department of Housing and Urban Development: *Provided further*, That if the Secretary determines that the amount made available for vouchers in this or any other Act is not needed for vouchers, the Secretary may use such funds for the demonstration program for the preservation and revitalization of multi-family rental housing properties described in this paragraph: *Provided further*, That of the funds made available under this heading, $2,000,000 shall be available for a demonstration program for the preservation and revitalization of the sections 514, 515, and 516 multi-family rental housing properties to restructure existing USDA multi-family housing loans, as the Secretary deems appropriate, expressly for the purposes of ensuring the project has sufficient resources to preserve the project for the purpose of providing safe and affordable housing for low-income residents and farm laborers including reducing or eliminating interest; deferring loan payments, subordinating, reducing or reamortizing loan debt; and other financial assistance including advances, payments and incentives (including the ability of owners to obtain reasonable returns on investment) required by the Secretary: *Provided further*, That the Secretary shall as part of the preservation and revitalization agreement obtain a restrictive use agreement consistent with the terms of the restructuring: *Provided further*, That if the Secretary determines that additional funds for vouchers described in this paragraph are needed, funds for the preservation and revitalization demonstration program may be used for such vouchers: *Provided further*, That if Congress enacts legislation to permanently authorize a multi-family rental housing loan restructuring program similar to the demonstration program described herein, the Secretary may use funds made available for the demonstration program under this heading to carry out such legislation with the prior approval of the Committees on Appropriations of both Houses of Congress: *Provided further*, That in addition to any other available funds, the Secretary may expend not more than $1,000,000 total, from the program funds made available under this heading, for administrative expenses for activities funded under this heading.

MUTUAL AND SELF-HELP HOUSING GRANTS

For grants and contracts pursuant to section 523(b)(1)(A) of the Housing Act of 1949 (42 U.S.C. 1490c), $30,000,000, to remain available until expended: *Provided*, That of the total amount appropriated under this heading, the amount equal to the amount of Mutual and Self- Help Housing Grants allocated by the Secretary for Rural Economic Area Partnership Zones for the fiscal year 2011, shall be available through June 30, 2012, for communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones.

RURAL HOUSING ASSISTANCE GRANTS

(INCLUDING TRANSFER OF FUNDS)

For grants and contracts for very low-income housing repair, supervisory and technical assistance, compensation for construction defects, and rural housing preservation made by the Rural Housing Service, as authorized by 42 U.S.C. 1474, 1479(c), 1490e, and 1490m, $34,271,000, to remain available until expended: *Provided*, That of the total amount appropriated under this heading, the amount equal to the amount of Rural Housing Assistance Grants allocated by the Secretary for Rural Economic Area Partnership Zones for

the fiscal year 2011, shall be available through June 30, 2012, for communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones: *Provided further*, That any balances to carry out a housing demonstration program to provide revolving loans for the preservation of low-income multi-family housing projects as authorized in Public Law 108–447 and Public Law 109–97 shall be transferred to and merged with the ''Rural Housing Service, Multi-family Housing Revitalization Program Account''.

RURAL COMMUNITY FACILITIES PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For gross obligations for the principal amount of direct loans as authorized by section 306 and described in section 381E(d)(1) of the Consolidated Farm and Rural Development Act, $1,300,000,000.

For the cost of grants for rural community facilities programs as authorized by section 306 and described in section 381E(d)(1) of the Consolidated Farm and Rural Development Act, $26,274,000, to remain available until expended: *Provided*, That $4,242,000 of the amount appropriated under this heading shall be available for a Rural Community Development Initiative: *Provided further*, That such funds shall be used solely to develop the capacity and ability of private, nonprofit community-based housing and community development organizations, low-income rural communities, and Federally Recognized Native American Tribes to undertake projects to improve housing, community facilities, community and economic development projects in rural areas: *Provided further*, That such funds shall be made available to qualified private, nonprofit and public intermediary organizations proposing to carry out a program of financial and technical assistance: *Provided further*, That such intermediary organizations shall provide matching funds from other sources, including Federal funds for related activities, in an amount not less than funds provided: *Provided further*, That $5,938,000 of the amount appropriated under this heading shall be to provide grants for facilities in rural communities with extreme unemployment and severe economic depression (Public Law 106–387), with up to 5 percent for administration and capacity building in the State rural development offices: *Provided further*, That $3,369,000 of the amount appropriated under this heading shall be available for community facilities grants to tribal colleges, as authorized by section 306(a)(19) of such Act: *Provided further*, That of the amount appropriated under this heading, the amount equal to the amount of Rural Community Facilities Program Account funds allocated by the Secretary for Rural Economic Area Partnership Zones for the fiscal year 2011, shall be available through June 30, 2012, for communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones for the rural community programs described in section 381E(d)(1) of the Consolidated Farm and Rural Development Act: *Provided further*, That sections 381E–H and 381N of the Consolidated Farm and Rural Development Act are not applicable to the funds made available under this heading: *Provided further*, That any prior balances in the Rural Development, Rural Community Advancement Program account for programs authorized by section 306 and described in section 381E(d)(1) of such Act be transferred and merged with this account and any other prior balances from the Rural Development, Rural Community Advancement Program account that the Secretary determines is appropriate to transfer.

RURAL BUSINESS—COOPERATIVE SERVICE

RURAL BUSINESS PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For the cost of loan guarantees and grants, for the rural business development programs authorized by sections 306 and 310B and described in sections 310B(f) and 381E(d)(3) of the Consolidated Farm and Rural Development Act, $79,665,000, to remain available until expended: *Provided*, That of the amount appropriated under this heading, not to exceed $475,000 shall be made available for a grant to a qualified national organization to provide technical assistance for rural transportation in order to promote economic development and $2,900,000 shall be for grants to the Delta Regional Authority (7 U.S.C. 2009aa et seq.) for any Rural Community Advancement Program purpose as described in section 381E(d) of the Consolidated Farm and Rural Development Act, of which not more than 5 percent may be used for administrative expenses: *Provided further*, That $4,000,000 of the amount appropriated under this heading shall be for business grants to benefit Federally Recognized Native American Tribes, including $250,000 for a grant to a qualified national organization to provide technical assistance for rural transportation in order to promote economic development: *Provided further*, That of the amount appropriated under this heading, the amount equal to the amount of Rural Business Program Account funds allocated by the Secretary for Rural Economic Area Partnership Zones for the fiscal year 2011, shall be available through June 30, 2012, for communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones for the rural business and cooperative development programs described in section 381E(d)(3) of the Consolidated Farm and Rural Development Act: *Provided further*, That sections 381E–H and 381N of the Consolidated Farm and Rural Development Act are not applicable to funds made available under this heading: *Provided further*, That any prior balances in the Rural Development, Rural Community Advancement Program account for programs authorized by sections 306 and 310B and described in sections 310B(f) and 381E(d)(3) of such Act be transferred and merged with this account and any other prior balances from the Rural Development, Rural Community Advancement Program account that the Secretary determines is appropriate to transfer.

RURAL DEVELOPMENT LOAN FUND PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the principal amount of direct loans, as authorized by the Rural Development Loan Fund (42 U.S.C. 9812(a)), $20,661,000. For the cost of direct loans, $7,000,000, as authorized by the Rural Development Loan Fund (42 U.S.C. 9812(a)), of which $1,000,000 shall be available through June 30, 2012, for Federally Recognized Native American Tribes and of which $2,000,000 shall be available through June 30, 2012, for Mississippi Delta Region counties (as determined in accordance with Public Law 100–460): *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That of the total amount appropriated under this heading, the amount equal to the amount of Rural Development Loan Fund Program Account funds allocated by the Secretary for Rural Economic Area Partnership Zones for the fiscal year 2011, shall be available through June 30, 2012, for communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones.

In addition, for administrative expenses to carry out the direct loan programs, $4,684,000 shall be transferred to and merged with the appropriation for ''Rural Development, Salaries and Expenses''.

RURAL ECONOMIC DEVELOPMENT LOANS PROGRAM ACCOUNT

(INCLUDING RESCISSION OF FUNDS)

For the principal amount of direct loans, as authorized under section 313 of the Rural Electrification Act, for the purpose of promoting rural economic development and job creation projects, $33,077,000.

Of the funds derived from interest on the cushion of credit payments, as authorized by section 313 of the Rural Electrification Act of 1936, $155,000,000 shall not be obligated and $155,000,000 are rescinded.

RURAL COOPERATIVE DEVELOPMENT GRANTS

For rural cooperative development grants authorized under section 310B(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932), $27,915,000, of which $2,250,000 shall be for cooperative agreements for the appropriate technology transfer for rural areas program: *Provided*, That not to exceed $2,938,000 shall be for grants for cooperative development centers, individual cooperatives, or groups of cooperatives that serve socially disadvantaged groups and a majority of the boards of directors or governing boards of which are comprised of individuals who are members of socially disadvantaged groups; and of which $16,005,000, to remain available until expended, shall be for value-added agricultural product market development grants, as authorized by section 231 of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 1621 note).

RURAL ENERGY FOR AMERICA PROGRAM

For the cost of a program of loan guarantees and grants, under the same terms and conditions as authorized by section 9007 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8107), $4,500,000: *Provided*, That the cost of loan guarantees, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

RURAL UTILITIES SERVICE

RURAL WATER AND WASTE DISPOSAL PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For the cost of direct loans, loan guarantees, and grants for the rural water, waste water, waste disposal, and solid waste management programs authorized by sections 306, 306A, 306C, 306D, 306E, and 310B and described in sections 306C(a)(2), 306D, 306E, and 381E(d)(2) of the Consolidated Farm and Rural Development Act, $509,295,000, to remain available until expended, of which not to exceed $422,000 shall be available for the rural utilities program described in section 306(a)(2)(B) of such Act, and of which not to exceed $844,000 shall be available for the rural utilities program described in section 306E of such Act: *Provided*, That $67,200,000 of the amount appropriated under this heading shall be for loans and grants including water and waste disposal systems grants authorized by 306C(a)(2)(B) and 306D of the Consolidated Farm and Rural Development Act, Federally recognized Native American Tribes authorized by 306C(a)(1), and the Department of Hawaiian Home Lands (of the State of Hawaii): *Provided further*, That funding provided for section 306D of the Consolidated Farm and Rural Development Act may be provided to a consortium formed pursuant to section 325 of Public Law 105–83: *Provided further*, That not more than 2 percent of the funding provided for section 306D of the Consolidated Farm and Rural Development Act may be used by the State of Alaska for training and technical assistance programs and not more than 2 percent of the funding provided for section 306D of the Consolidated

Farm and Rural Development Act may be used by a consortium formed pursuant to section 325 of Public Law 105–83 for training and technical assistance programs: *Provided further*, That not to exceed $19,000,000 of the amount appropriated under this heading shall be for technical assistance grants for rural water and waste systems pursuant to section 306(a)(14) of such Act, unless the Secretary makes a determination of extreme need, of which $5,750,000 shall be made available for a grant to a qualified non-profit multi-state regional technical assistance organization, with experience in working with small communities on water and waste water problems, the principal purpose of such grant shall be to assist rural communities with populations of 3,300 or less, in improving the planning, financing, development, operation, and management of water and waste water systems, and of which not less than $800,000 shall be for a qualified national Native American organization to provide technical assistance for rural water systems for tribal communities: *Provided further*, That not to exceed $15,000,000 of the amount appropriated under this heading shall be for contracting with qualified national organizations for a circuit rider program to provide technical assistance for rural water systems: *Provided further*, That of the amount appropriated under this heading, the amount equal to the amount of Rural Water and Waste Disposal Program Account funds allocated by the Secretary for Rural Economic Area Partnership Zones for the fiscal year 2011, shall be available through June 30, 2012, for communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones for the rural utilities programs described in section 381E(d)(2) of the Consolidated Farm and Rural Development Act: *Provided further*, That $10,000,000 of the amount appropriated under this heading shall be transferred to, and merged with, the Rural Utilities Service, High Energy Cost Grants Account to provide grants authorized under section 19 of the Rural Electrification Act of 1936 (7 U.S.C. 918a): *Provided further*, That any prior year balances for high cost energy grants authorized by section 19 of the Rural Electrification Act of 1936 (7 U.S.C. 918a) shall be transferred to and merged with the Rural Utilities Service, High Energy Costs Grants Account: *Provided further*, That sections 381E–H and 381N of the Consolidated Farm and Rural Development Act are not applicable to the funds made available under this heading: *Provided further*, That any prior balances in the Rural Development, Rural Community Advancement Program account programs authorized by sections 306, 306A, 306C, 306D, 306E, and 310B and described in sections 306C(a)(2), 306D, 306E, and 381E(d)(2) of such Act be transferred to and merged with this account and any other prior balances from the Rural Development, Rural Community Advancement Program account that the Secretary determines is appropriate to transfer.

RURAL ELECTRIFICATION AND TELECOMMUNICATIONS LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

The principal amount of direct and guaranteed loans as authorized by sections 305 and 306 of the Rural Electrification Act of 1936 (7 U.S.C. 935 and 936) shall be made as follows: 5 percent rural electrification loans, $100,000,000; loans made pursuant to section 306 of that Act, rural electric, $6,500,000,000; guaranteed underwriting loans pursuant to section 313A, $424,286,000; 5 percent rural telecommunications loans, $145,000,000; cost of money rural telecommunications loans, $250,000,000; and for loans made pursuant to section 306 of that Act, rural telecommunications loans, $295,000,000.

For the cost of guaranteed loans, including the cost of modifying loans, as defined in section 502 of the Congressional Budget Act of 1974, as follows: $594,000 for guaranteed underwriting loans authorized by section 313A of the Rural Electrification Act of 1936 (7 U.S.C. 940c–1).

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $36,382,000, which shall be transferred to and merged with the appropriation for ''Rural Development, Salaries and Expenses''.

DISTANCE LEARNING, TELEMEDICINE, AND BROADBAND PROGRAM

For the principal amount of broadband telecommunication loans, $282,686,000.

For grants for telemedicine and distance learning services in rural areas, as authorized by 7 U.S.C. 950aaa et seq., $28,570,000, to remain available until expended: *Provided*, That $3,000,000 shall be made available for grants authorized by 379G of the Consolidated Farm and Rural Development Act: *Provided further*, That $3,000,000 shall be made available to those noncommercial educational television broadcast stations that serve rural areas and are qualified for Community Service Grants by the Corporation for Public Broadcasting under section 396(k) of the Communications Act of 1934, including associated translators and repeaters, regardless of the location of their main transmitter, studio-to-transmitter links, and equipment to allow local control over digital content and programming through the use of high definition broadcast, multi-casting and datacasting technologies.

For the cost of broadband loans, as authorized by section 601 of the Rural Electrification Act, $8,000,000, to remain available until expended: *Provided*, That the cost of direct loans shall be as defined in section 502 of the Congressional Budget Act of 1974.

In addition, $10,372,000, to remain available until expended, for a grant program to finance broadband transmission in rural areas eligible for Distance Learning and Telemedicine Program benefits authorized by 7 U.S.C. 950aaa.

TITLE IV

DOMESTIC FOOD PROGRAMS

OFFICE OF THE UNDER SECRETARY FOR FOOD, NUTRITION AND CONSUMER SERVICES

For necessary expenses of the Office of the Under Secretary for Food, Nutrition and Consumer Services, $770,000.

FOOD AND NUTRITION SERVICE

CHILD NUTRITION PROGRAMS

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.), except section 21, and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), except sections 17 and 21; $18,151,176,000, to remain available through September 30, 2013, of which such sums as are made available under section 14222(b)(1) of the Food, Conservation, and Energy Act of 2008 (Public Law 110–246), as amended by this Act, shall be merged with and available for the same time period and purposes as provided herein: *Provided*, That the total amount available, $1,000,000 shall be available to implement section 23 of the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq): *Provided further*, That section 14222(b)(1) of the Food, Conservation, and Energy Act of 2008 is amended by adding at the end before the period, ''except section 21, and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), except sections 17 and 21''.

SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

For necessary expenses to carry out the special supplemental nutrition program as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), $6,582,497,000, to remain available through September 30, 2013: *Provided*, That notwithstanding section 17(h)(10) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(10)), of the amounts made available under this heading, not less than $60,000,000 shall be used for breast-feeding peer counselors and other related activities: *Provided further*, That funds made available for the purposes specified in section 17(h)(10)(B) shall only be made available upon a determination by the Secretary that funds are available to meet caseload requirements: *Provided further*, That none of the funds provided in this account shall be available for the purchase of infant formula except in accordance with the cost containment and competitive bidding requirements specified in section 17 of such Act: *Provided further*, That none of the funds provided shall be available for activities that are not fully reimbursed by other Federal Government departments or agencies unless authorized by section 17 of such Act.

SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM

For necessary expenses to carry out the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.), $80,402,722,000, of which $3,000,000,000, to remain available through September 30, 2013, shall be placed in reserve for use only in such amounts and at such times as may become necessary to carry out program operations: *Provided*, That funds provided herein shall be expended in accordance with section 16 of the Food and Nutrition Act of 2008: *Provided further*, That of the funds made available under this heading, $1,000,000 may be used to provide nutrition education services to state agencies and Federally recognized tribes participating in the Food Distribution Program on Indian Reservations: *Provided further*, That this appropriation shall be subject to any work registration or workfare requirements as may be required by law: *Provided further*, That funds made available for Employment and Training under this heading shall remain available until expended, notwithstanding section 16(h)(1) of the Food and Nutrition Act of 2008: *Provided further*, That funds made available under this heading may be used to enter into contracts and employ staff to conduct studies, evaluations, or to conduct activities related to program integrity provided that such activities are authorized by the Food and Nutrition Act of 2008.

COMMODITY ASSISTANCE PROGRAM

For necessary expenses to carry out disaster assistance and the Commodity Supplemental Food Program as authorized by section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note); the Emergency Food Assistance Act of 1983; special assistance for the nuclear affected islands, as authorized by section 103(f)(2) of the Compact of Free Association Amendments Act of 2003 (Public Law 108–188); and the Farmers' Market Nutrition Program, as authorized by section 17(m) of the Child Nutrition Act of 1966, $242,336,000, to remain available through September 30, 2013: *Provided*, That none of these funds shall be available to reimburse the Commodity Credit Corporation for commodities donated to the program: *Provided further*, That notwithstanding any other provision of law, effective with funds made available in fiscal year 2011 to support the Seniors Farmers' Market Nutrition Program, as authorized by section 4402 of the Farm Security and Rural Investment Act of 2002, such funds shall remain available through September 30, 2013: *Provided further*, That of the funds made available under section 27(a) of the Food and Nutrition Act of 2008 (7 U.S.C. 2036(a)), the Secretary may use up to 10 percent for costs associated with the distribution of commodities.

NUTRITION PROGRAMS ADMINISTRATION

For necessary administrative expenses of the Food and Nutrition Service for carrying out any domestic nutrition assistance program, $140,130,000: *Provided*, That$2,000,000 shall be used for the purposes of section 4404 of Public Law 107–171, as amended by section 4401 of Public Law 110–246.

TITLE V

FOREIGN ASSISTANCE AND RELATED PROGRAMS

FOREIGN AGRICULTURAL SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Foreign Agricultural Service, including not to exceed $158,000 for representation allowances and for expenses pursuant to section 8 of the Act approved August 3, 1956 (7 U.S.C. 1766), $176,347,000: *Provided*, That the Service may utilize advances of funds, or reimburse this appropriation for expenditures made on behalf of Federal agencies, public and private organizations and institutions under agreements executed pursuant to the agricultural food production assistance programs (7 U.S.C. 1737) and the foreign assistance programs of the United States Agency for International Development: *Provided further*, That funds made available for middle-income country training programs and up to $2,000,000 of the Foreign Agricultural Service appropriation solely for the purpose of offsetting fluctuations in international currency exchange rates, subject to documentation by the Foreign Agricultural Service, shall remain available until expended.

FOOD FOR PEACE TITLE I DIRECT CREDIT AND FOOD FOR PROGRESS PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For administrative expenses to carry out the credit program of title I, Food for Peace Act (Public Law 83–480) and the Food for Progress Act of 1985, $2,666,000, shall be transferred to and merged with the appropriation for ''Farm Service Agency, Salaries and Expenses'': *Provided*, That funds made available for the cost of agreements under title I of the Agricultural Trade Development and Assistance Act of 1954 and for title I ocean freight differential may be used interchangeably between the two accounts with prior notice to the Committees on Appropriations of both Houses of Congress.

FOOD FOR PEACE TITLE II GRANTS

For expenses during the current fiscal year, not otherwise recoverable, and unrecovered prior years' costs, including interest thereon, under the Food for Peace Act (Public Law 83–480, as amended), for commodities supplied in connection with dispositions abroad under title II of said Act, $1,562,000,000, to remain available until expended.

MC GOVERN-DOLE INTERNATIONAL FOOD FOR EDUCATION AND CHILD NUTRITION PROGRAM GRANTS

For necessary expenses to carry out the provisions of section 3107 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 1736o–1), $188,000,000, to remain available until expended: *Provided*, That the Commodity Credit Corporation is authorized to provide the services, facilities, and authorities for the purpose of implementing such section, subject to reimbursement from amounts provided herein.

COMMODITY CREDIT CORPORATION EXPORT (LOANS) CREDIT GUARANTEE PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For administrative expenses to carry out the Commodity Credit Corporation's export guarantee program, GSM 102 and GSM 103, $6,465,000; to cover common overhead expenses as permitted by section 11 of the Commodity Credit Corporation Charter Act and in conformity with the Federal Credit Reform Act of 1990, of which $6,129,000 shall be transferred to and merged with the appropriation for ''Foreign Agricultural Service, Salaries and Expenses'', and of which $336,000 shall be transferred to and merged with the appropriation for ''Farm Service Agency, Salaries and Expenses''.

TITLE VI

RELATED AGENCIES AND FOOD AND DRUG ADMINISTRATION

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Food and Drug Administration, including hire and purchase of passenger motor vehicles; for payment of space rental and related costs pursuant to Public Law 92–313 for programs and activities of the Food and Drug Administration which are included in this Act; for rental of special purpose space in the District of Columbia or elsewhere; for miscellaneous and emergency expenses of enforcement activities, authorized and approved by the Secretary and to be accounted for solely on the Secretary's certificate, not to exceed $25,000; and notwithstanding section 521 of Public Law 107–188; $3,859,402,000: *Provided*, That of the amount provided under this heading, $702,172,000 shall be derived from prescription drug user fees authorized by 21 U.S.C. 379h shall be credited to this account and remain available until expended, and shall not include any fees pursuant to 21 U.S.C. 379h(a)(2) and (a)(3) assessed for fiscal year 2013 but collected in fiscal year 2012; $57,605,000 shall be derived from medical device user fees authorized by 21 U.S.C. 379j, and shall be credited to this account and remain available until expended; $21,768,000 shall be derived from animal drug user fees authorized by 21 U.S.C. 379j, and shall be credited to this account and remain available until expended; $5,706,000 shall be derived from animal generic drug user fees authorized by 21 U.S.C. 379f, and shall be credited to this account and shall remain available until expended; $477,000,000 shall be derived from tobacco product user fees authorized by 21 U.S.C. 387s and shall be credited to this account and remain available until expended; $12,364,000 shall be derived from food and feed recall fees authorized by section 743 of the Federal Food, Drug, and Cosmetic Act (Public Law 75–717), as amended by the Food Safety Modernization Act (Public Law 111–353), and shall be credited to this account and remain available until expended; $14,700,000 shall be derived from food reinspection fees authorized by section 743 of the Federal Food, Drug, and Cosmetic Act (Public Law 75–717), as amended by the Food Safety Modernization Act (Public Law 111–353), and shall be credited to this account and remain available until expended; and $71,066,000 shall be derived from voluntary qualified importer program fees authorized by section 743 of the Federal Food, Drug, and Cosmetic Act (Public Law 75–717), as amended by the Food Safety Modernization Act (Public Law 111–353), and shall be credited to this account and remain available until expended: *Provided further*, That in addition and notwithstanding any other provision under this heading, amounts collected for prescription drug user fees that exceed the fiscal year 2012 limitation are appropriated and shall be credited to this account and remain available until expended: *Provided further*, That fees derived from prescription drug, medical device, animal drug, animal generic drug, and tobacco product assessments for fiscal year 2012 received during fiscal year 2012, including any such fees assessed prior to fiscal year 2012 but credited for fiscal year 2012, shall be subject to the fiscal year 2012 limitations: *Provided further*, That none of these funds shall be used to develop, establish, or operate any program of user fees authorized by 31 U.S.C. 9701: *Provided further*, That of the total amount appropriated: (1) $944,979,000 shall be for the Center for Food Safety and Applied Nutrition and related field activities in the Office of Regulatory Affairs; (2) $978,205,000 shall be for the Center for Drug Evaluation and Research and related field activities in the Office of Regulatory Affairs, of which no less than $52,947,000 shall be available for the Office of Generic Drugs; (3) $328,886,000 shall be for the Center for Biologics Evaluation and Research and for related field activities in the Office of Regulatory Affairs; (4) $166,365,000 shall be for the Center for Veterinary Medicine and for related field activities in the Office of Regulatory Affairs; (5) $356,659,000 shall be for the Center for Devices and Radiological Health and for related field activities in the Office of Regulatory Affairs; (6) $60,039,000 shall be for the National Center for Toxicological Research; (7) $454,751,000 shall be for the Center for Tobacco Products and for related field activities in the Office of Regulatory Affairs; (8) not to exceed $133,879,000 shall be for Rent and Related activities, of which $43,981,000 is for White Oak Consolidation, other than the amounts paid to the General Services Administration for rent; (9) not to exceed $209,392,000 shall be for payments to the General Services Administration for rent; and (10) $226,247,000 shall be for other activities, including the Office of the Commissioner of Food and Drugs, the Office of Foods, the Office of Medical and Tobacco Products, the Office of Global and Regulatory Policy, the Office of Operations, the Office of the Chief Scientist, and central services for these offices: *Provided further*, That not to exceed $25,000 of this amount shall be for official reception and representation expenses, not otherwise provided for, as determined by the Commissioner: *Provided further*, That funds be may transferred from one specified activity to another with the prior approval of the Committees on Appropriations of both Houses of Congress.

In addition, mammography user fees authorized by 42 U.S.C. 263b, export certification user fees authorized by 21 U.S.C. 381, and priority review user fees authorized by 21 U.S.C. 360n may be credited to this account, to remain available until expended.

BUILDINGS AND FACILITIES

For plans, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of or used by the Food and Drug Administration, where not otherwise provided, $8,982,000, to remain available until expended.

INDEPENDENT AGENCY

FARM CREDIT ADMINISTRATION

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $62,000,000 (from assessments collected from farm credit institutions, including the Federal Agricultural Mortgage Corporation) shall be obligated during the current fiscal year for administrative expenses as authorized under 12 U.S.C. 2249: *Provided*, That this limitation shall not apply to expenses associated with receiverships.

TITLE VII

GENERAL PROVISIONS

(INCLUDING RESCISSIONS AND TRANSFERS OF FUNDS)

SEC. 701. Within the unit limit of cost fixed by law, appropriations and authorizations

made for the Department of Agriculture for the current fiscal year under this Act shall be available for the purchase, in addition to those specifically provided for, of not to exceed 204 passenger motor vehicles, of which 170 shall be for replacement only, and for the hire of such vehicles.

SEC. 702. The Secretary of Agriculture may transfer unobligated balances of discretionary funds appropriated by this Act or other available unobligated discretionary balances of the Department of Agriculture to the Working Capital Fund for the acquisition of plant and capital equipment necessary for the delivery of financial, administrative, and information technology services of primary benefit to the agencies of the Department of Agriculture: *Provided*, That none of the funds made available by this Act or any other Act shall be transferred to the Working Capital Fund without the prior approval of the agency administrator: *Provided further*, That none of the funds transferred to the Working Capital Fund pursuant to this section shall be available for obligation without written notification to and the prior approval of the Committees on Appropriations of both Houses of Congress: *Provided further*, That none of the funds appropriated by this Act or made available to the Department's Working Capital Fund shall be available for obligation or expenditure to make any changes to the Department's National Finance Center without written notification to and prior approval of the Committees on Appropriations of both Houses of Congress as required by section 711 of this Act: *Provided further*, That of annual income amounts in the Working Capital Fund of the Department of Agriculture allocated for the National Finance Center, the Secretary may reserve not more than 4 percent for the replacement or acquisition of capital equipment, including equipment for the improvement and implementation of a financial management plan, information technology, and other systems of the National Finance Center or to pay any unforeseen, extraordinary cost of the National Finance Center: *Provided further*, That none of the amounts reserved shall be available for obligation unless the Secretary submits written notification of the obligation to the Committees on Appropriations of the House of Representatives and the Senate: *Provided further*, That the limitation on the obligation of funds pending notification to Congressional Committees shall not apply to any obligation that, as determined by the Secretary, is necessary to respond to a declared state of emergency that significantly impacts the operations of the National Finance Center; or to evacuate employees of the National Finance Center to a safe haven to continue operations of the National Finance Center.

SEC. 703. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 704. No funds appropriated by this Act may be used to pay negotiated indirect cost rates on cooperative agreements or similar arrangements between the United States Department of Agriculture and nonprofit institutions in excess of 10 percent of the total direct cost of the agreement when the purpose of such cooperative arrangements is to carry out programs of mutual interest between the two parties. This does not preclude appropriate payment of indirect costs on grants and contracts with such institutions when such indirect costs are computed on a similar basis for all agencies for which appropriations are provided in this Act.

SEC. 705. Appropriations to the Department of Agriculture for the cost of direct and guaranteed loans made available in the current fiscal year shall remain available until expended to disburse obligations made in the current fiscal year for the following accounts: the Rural Development Loan Fund program account, the Rural Electrification and Telecommunication Loans program account, and the Rural Housing Insurance Fund program account.

SEC. 706. Hereafter, none of the funds appropriated by this Act may be used to carry out section 410 of the Federal Meat Inspection Act (21 U.S.C. 679a) or section 30 of the Poultry Products Inspection Act (21 U.S.C. 471).

SEC. 707. None of the funds made available to the Department of Agriculture by this Act may be used to acquire new information technology systems or significant upgrades, as determined by the Office of the Chief Information Officer, without the approval of the Chief Information Officer and the concurrence of the Executive Information Technology Investment Review Board: *Provided*, That notwithstanding any other provision of law, none of the funds appropriated or otherwise made available by this Act may be transferred to the Office of the Chief Information Officer without written notification to and the prior approval of the Committees on Appropriations of both Houses of Congress: *Provided further*, That none of the funds available to the Department of Agriculture for information technology shall be obligated for projects over $25,000 prior to receipt of written approval by the Chief Information Officer.

SEC. 708. Funds made available under section 1240I and section 1241(a) of the Food Security Act of 1985 and section 524(b) of the Federal Crop Insurance Act (7 U.S.C. 1524(b)) in the current fiscal year shall remain available until expended to disburse obligations made in the current fiscal year.

SEC. 709. Hereafter, notwithstanding any other provision of law, any former RUS borrower that has repaid or prepaid an insured, direct or guaranteed loan under the Rural Electrification Act, or any not-for-profit utility that is eligible to receive an insured or direct loan under such Act, shall be eligible for assistance under section 313(b)(2)(B) of such Act in the same manner as a borrower under such Act.

SEC. 710. Notwithstanding any other provision of law, for the purposes of a grant under section 412 of the Agricultural Research, Extension, and Education Reform Act of 1998, none of the funds in this or any other Act may be used to prohibit the provision of in-kind support from non-Federal sources under section 412(e)(3) in the form of unrecovered indirect costs not otherwise charged against the grant, consistent with the indirect rate of cost approved for a recipient.

SEC. 711. Except as otherwise specifically provided by law, unobligated balances remaining available at the end of the fiscal year from appropriations made available for salaries and expenses in this Act for the Farm Service Agency and the Rural Development mission area, shall remain available through September 30, 2013, for information technology expenses.

SEC. 712. The Secretary of Agriculture may authorize a State agency to use funds provided in this Act to exceed the maximum amount of liquid infant formula specified in 7 C.F.R. 246.10 when issuing liquid infant formula to participants.

SEC. 713. No employee of the Department of Agriculture may be detailed or assigned from an agency or office funded by this Act or any other Act to any other agency or office of the Department for more than 30 days unless the individual's employing agency or office is fully reimbursed by the receiving agency or office for the salary and expenses of the employee for the period of assignment.

SEC. 714. In the case of each program established or amended by the Food, Conservation, and Energy Act of 2008 (Public Law 110–246), other than by title I or subtitle A of title III of such Act, or programs for which indefinite amounts were provided in that Act that is authorized or required to be carried out using funds of the Commodity Credit Corporation—

(1) such funds shall be available for salaries and related administrative expenses, including technical assistance, associated with the implementation of the program, without regard to the limitation on the total amount of allotments and fund transfers contained in section 11 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714i); and

(2) the use of such funds for such purpose shall not be considered to be a fund transfer or allotment for purposes of applying the limitation on the total amount of allotments and fund transfers contained in such section.

SEC. 715. Funds provided by this Act may be used notwithstanding the requirements of 7 U.S.C. 1736f(e)(1).

SEC. 716. None of the funds made available by this or any other Act may be used to close or relocate a Rural Development office unless or until the Secretary of Agriculture determines the cost effectiveness and/or enhancement of program delivery: *Provided*, That not later than 120 days before the date of the proposed closure or relocation, the Secretary notifies in writing the Committees on Appropriation of the House and Senate, and the members of Congress from the State in which the office is located of the proposed closure or relocation and provides a report that describes the justifications for such closures and relocations.

SEC. 717. Appropriations to the Department of Agriculture made available in fiscal years 2005, 2006, and 2007 to carry out section 601 of the Rural Electrification Act of 1936 (7 U.S.C. 950bb) for the cost of direct loans shall remain available until expended to disburse valid obligations.

SEC. 718. None of the funds made available in fiscal year 2012 or preceding fiscal years for programs authorized under the Food for Peace Act (7 U.S.C. 1691 et seq.) in excess of $20,000,000 shall be used to reimburse the Commodity Credit Corporation for the release of eligible commodities under section 302(f)(2)(A) of the Bill Emerson Humanitarian Trust Act (7 U.S.C. 1736f–1): *Provided*, That any such funds made available to reimburse the Commodity Credit Corporation shall only be used pursuant to section 302(b)(2)(B)(i) of the Bill Emerson Humanitarian Trust Act.

SEC. 719. Of the funds made available by this Act, not more than $1,800,000 shall be used to cover necessary expenses of activities related to all advisory committees, panels, commissions, and task forces of the Department of Agriculture, except for panels used to comply with negotiated rule makings and panels used to evaluate competitively awarded grants.

SEC. 720. Notwithstanding any other provision of law, school food authorities which received a grant for equipment assistance under the grant program carried out pursuant to the heading ''Food and Nutrition Service Child Nutrition Programs'' in title I of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) shall be eligible to receive a grant under section 749 (j) of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2010 (Public Law 111–80).

SEC. 721. There is hereby appropriated $1,996,000 to carry out section 1621 of Public Law 110–246.

SEC. 722. There is hereby appropriated $600,000 to the Farm Service Agency to carry out a pilot program to demonstrate the use of new technologies that increase the rate of

growth of re-forested hardwood trees on private non-industrial forests lands, enrolling lands on the coast of the Gulf of Mexico that were damaged by Hurricane Katrina in 2005.

SEC. 723. (a) None of the funds provided by this Act, or provided by previous Appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in the current fiscal year, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds, or in the case of the Department of Agriculture, through use of the authority provided by section 702(b) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 2257) or section 8 of Public Law 89–106 (7 U.S.C. 2263), that—

(1) creates new programs;

(2) eliminates a program, project, or activity;

(3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted;

(4) relocates an office or employees;

(5) reorganizes offices, programs, or activities; or

(6) contracts out or privatizes any functions or activities presently performed by Federal employees; unless the Secretary of Agriculture or the Secretary of Health and Human Services (as the case may be) notifies, in writing, the Committees on Appropriations of both Houses of Congress at least 30 days in advance of the reprogramming of such funds or the use of such authority.

(b) None of the funds provided by this Act, or provided by previous Appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in the current fiscal year, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming or use of the authorities referred to in subsection (a) involving funds in excess of $500,000 or 10 percent, whichever is less, that:

(1) augments existing programs, projects, or activities;

(2) reduces by 10 percent funding for any existing program, project, or activity, or numbers of personnel by 10 percent as approved by Congress; or

(3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress; unless the Secretary of Agriculture or the Secretary of Health and Human Services (as the case may be) notifies, in writing, the Committees on Appropriations of both Houses of Congress at least 30 days in advance of the reprogramming of such funds or the use of such authority.

(c) The Secretary of Agriculture or the Secretary of Health and Human Services shall notify in writing the Committees on Appropriations of both Houses of Congress before implementing any program or activity not carried out during the previous fiscal year unless the program or activity is funded by this Act or specifically funded by any other Act.

(d) As described in this section, no funds may be used for any activities unless the Secretary of Agriculture or the Secretary of Health and Human Services receives in writing from the Committee on Appropriations of both Houses of Congress confirmation of receipt of the notification required in this section.

SEC. 724. None of the funds appropriated by this or any other Act shall be used to pay the salaries and expenses of personnel who prepare or submit appropriations language as part of the President's Budget submission to the Congress of the United States for programs under the jurisdiction of the Appropriations Subcommittees on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies that assumes revenues or reflects a reduction from the previous year due to user fees proposals that have not been enacted into law prior to the submission of the Budget unless such Budget submission identifies which additional spending reductions should occur in the event the user fees proposals are not enacted prior to the date of the convening of a committee of conference for the fiscal year 2013 appropriations Act.

SEC. 725. The Secretary may reserve, through April 1, 2012, up to 5 percent of the funding available for the following items for projects in areas that are engaged in strategic regional development planning as defined by the Secretary: business and industry guaranteed loans; rural development loan fund; rural business enterprise grants; rural business opportunity grants; rural economic development program; rural microenterprise program; biorefinery assistance program; rural energy for America program; value-added producer grants; broadband program; water and waste program; and rural community facilities program

SEC. 726. None of the funds appropriated or otherwise made available by this or any other Act shall be used to pay the salaries and expenses of personnel to carry out the following:

(1) The Conservation Stewardship Program authorized by sections 1238D–1238G of the Food Security of Act 1985 (16 U.S.C. 3838d–3838g) in excess of $809,000,000;

(2) The Watershed Rehabilitation program authorized by section 14(h) of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1012(h));

(3) The Environmental Quality Incentives Program as authorized by sections 1240–1240H of the Food Security Act of 1985 (16 U.S.C. 3839aa–3839aa–8) in excess of $1,400,000,000: *Provided,* That up to $20,000,000 of the funds made available for the Environmental Quality Incentives Program as authorized by sections 1240–1240H of the Food Security Act of 1985 (16 U.S.C. 3839aa–3839aa(8)) may be transferred to a program as authorized by 16 U.S.C. 1301–1311 to enroll agricultural lands that experienced significant flooding, as determined by the Secretary, in calendar year 2011: *Provided further,* That no more than $10,000,000 may be used for agreements entered into with owners or operators in any one State;

(4) The Farmland Protection Program as authorized by section 1238I of the Food Security Act of 1985 (16 U.S.C. 3838i) in excess of $150,000,000;

(5) The Grassland Reserve Program as authorized by sections 1238O–1238Q of the Food Security Act of 1985 (16 U.S.C. 3838o–3838q) in excess of 140,907 acres in fiscal year 2012;

(6) The Wetlands Reserve Program authorized by sections 1237–1237F of the Food Security Act of 1985 (16 U.S.C. 3837–3837f) to enroll in excess of 185,800 acres in fiscal year 2012;

(7) The Wildlife Habitat Incentives Act authorized by section 1240N of the Food Security Act of 1985 (16 U.S.C. 3839bb–1)) in excess of $50,000,000;

(8) The Voluntary Public Access and Habitat Incentives Program authorized by section 1240R of the Food Security Act of 1985 (16 U.S.C. 3839bb–5);

(9) The Bioenergy Program for Advanced Biofuels authorized by section 9005 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8105) in excess of $75,000,000;

(10) The Rural Energy for America Program authorized by section 9007 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8107) in excess of $34,000,000;

(11) Section 508(d)(3) of the Federal Crop Insurance Act (7 U.S.C. 1508(d)(3)) to provide a performance-based premium discount in the crop insurance program;

(12) Agricultural Management Assistance Program as authorized by section 524 of the Federal Crop Insurance Act, as amended (7 U.S.C. 1524) in excess of $2,500,000 for the Natural Resources Conservation Service; and

(13) A program under subsection (b)(2)(A)(iv) of section 14222 of Public Law 110–246 in excess of $948,000,000, as follows: Child Nutrition Programs Entitlement Commodities—$465,000,000; State Option Contracts—$5,000,000; Removal of Defective Commodities—$2,500,000: *Provided,* That none of the funds made available in this Act or any other Act shall be used for salaries and expenses to carry out section 19(i)(1)(E) of the Richard B. Russell National School Lunch Act as amended by section 4304 of Public Law 110–246 in excess of $20,000,000, including the transfer of funds under subsection (c) of section 14222 of Public Law 110–246, until October 1, 2012: *Provided further,* That $133,000,000 made available on October 1, 2012, to carry out section 19(i)(1)(E) of the Richard B. Russell National School Lunch Act as amended by section 4304 of Public Law 110–246 shall be excluded from the limitation described in subsection (b)(2)(A)(v) of section 14222 of Public Law 110–246: *Provided further,* That none of the funds appropriated or otherwise made available by this or any other Act shall be used to pay the salaries or expenses of any employee of the Department of Agriculture or officer of the Commodity Credit Corporation to carry out clause 3 of section 32 of the Agricultural Adjustment Act of 1935 (Public Law 74–320, 7 U.S.C. 612c, as amended), or for any surplus removal activities or price support activities under section 5 of the Commodity Credit Corporation Charter Act: *Provided further,* That of the available unobligated balances under (b)(2)(A)(iv) of section 14222 of Public Law 110–246, $150,000,000 are hereby rescinded.

SEC. 727. Hereafter, notwithstanding section 310B(g)(5) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(g)(5)), the Secretary may assess a one-time fee for any guaranteed business and industry loan in an amount that does not exceed 3 percent of the guaranteed principal portion of the loan.

SEC. 728. None of the funds appropriated or otherwise made available to the Department of Agriculture or the Food and Drug Administration shall be used to transmit or otherwise make available to any non-Department of Agriculture or non-Department of Health and Human Services employee questions or responses to questions that are a result of information requested for the appropriations hearing process.

SEC. 729. (a) Clause (ii) of section 524(b)(4)(B) of the Federal Crop Insurance Act (7 U.S.C. 1524(b)(4)(B)) is amended—

(1) in the heading, by striking ''fiscal years 2008 through 2012'' and inserting ''certain fiscal years''; and

(2) in the text, by striking ''2012'' and inserting ''2014''.

(b) Section 1238E(a) of the Food Security Act of 1985 (16 U.S.C. 3838e(a)) is amended by striking ''2012'' and inserting ''2014''.

(c) Section 1240B(a) of the Food Security Act of 1985 (16 U.S.C. 3839aa–2(a)) is amended by striking ''2012'' and inserting ''2014''.

(d) Section 1241(a)(6)(E) of the Food Security Act of 1985 (16 U.S.C. 3841(a)(6)(E)) is amended by striking ''fiscal year 2012'' and inserting ''each of fiscal years 2012 through 2014''.

(e) Section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)) is amended—

(1) in the matter preceding paragraph (1), by striking ''2012,'' and inserting ''2012 (and fiscal year 2014 in the case of the programs specified in paragraphs (3)(B), (4), (6), and (7)),''; and

(2) in paragraph (4)(E), by striking ''fiscal year 2012'' and inserting ''each of fiscal years 2012 through 2014''.

(f) Section 1241(a)(7)(D) of the Food Security Act of 1985 (16 U.S.C. 3841(a)(7)(D)) is amended by striking ''2012'' and inserting ''2014''.

SEC. 730. Any unobligated funds included under Treasury symbol codes 12X3336, 12X2268, 12X0132, 12X2271, 12X2277, 12X1404, 12X1501, and 12X1336 are hereby rescinded.

SEC. 731. Of the unobligated balances provided pursuant to section 16(h)(1)(A) of the Food and Nutrition Act of 2008, $11,000,000 are hereby rescinded.

SEC. 732. There is hereby appropriated for the ''Emergency Conservation Program'', for expenses resulting from a major disaster designation pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)), $78,000,000, to remain available until expended: *Provided*, That this amount is designated by Congress as being for disaster relief pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99–177), as amended: *Provided further*, That there is hereby appropriated for the ''Emergency Forest Restoration Program'', for expenses resulting from a major disaster designation pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)), $49,000,000, to remain available until expended: *Provided further*, That this amount is designated by Congress as being for disaster relief pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99–177), as amended: *Provided further*, That there is hereby appropriated for the ''Emergency Watershed Protection Program'', for expenses resulting from a major disaster designation pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)), $139,000,000, to remain available until expended: *Provided further*, That this amount is designated by Congress as being for disaster relief pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99–177), as amended.

SEC. 733. Unobligated balances not to exceed $31,000,000 for the ''Emergency Watershed Protection Program'' provided in Public Law 108–199, Public Law 109–234, and Public Law 110–28 shall be available for the purposes of such program for disasters occurring in 2011, and shall remain available until expended: *Provided*, That the amounts made available by this section are designated by Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99–177), as amended.

This Act may be cited as the ''Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2012''.

DIVISION B—COMMERCE, JUSTICE, SCIENCE, AND RELATED AGENCIES

The following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2012, and for other purposes, namely:

TITLE I

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For necessary expenses for international trade activities of the Department of Commerce provided for by law, and for engaging in trade promotional activities abroad, including expenses of grants and cooperative agreements for the purpose of promoting exports of United States firms, without regard to 44 U.S.C. 3702 and 3703; full medical coverage for dependent members of immediate families of employees stationed overseas and employees temporarily posted overseas; travel and transportation of employees of the International Trade Administration between two points abroad, without regard to 49 U.S.C. 40118; employment of Americans and aliens by contract for services; rental of space abroad for periods not exceeding 10 years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $245,250 for official representation expenses abroad; purchase of passenger motor vehicles for official use abroad, not to exceed $45,000 per vehicle; obtaining insurance on official motor vehicles; and rental of tie lines, $441,104,000, to remain available until September 30, 2013, of which $9,439,000 is to be derived from fees to be retained and used by the International Trade Administration, notwithstanding 31 U.S.C. 3302: *Provided further*, That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities without regard to section 5412 of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4912); and that for the purpose of this Act, contributions under the provisions of the Mutual Educational and Cultural Exchange Act of 1961 shall include payment for assessments for services provided as part of these activities: *Provided further*, That up to $2,500,000 from amounts provided herein may be available for necessary expenses of the Commercial Law Development Program, including those authorized under section 636(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2396(a)).

BUREAU OF INDUSTRY AND SECURITY

OPERATIONS AND ADMINISTRATION

For necessary expenses for export administration and national security activities of the Department of Commerce, including costs associated with the performance of export administration field activities both domestically and abroad; full medical coverage for dependent members of immediate families of employees stationed overseas; employment of Americans and aliens by contract for services abroad; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $11,250 for official representation expenses abroad; awards of compensation to informers under the Export Administration Act of 1979, and as authorized by 22 U.S.C. 401(b); and purchase of passenger motor vehicles for official use and motor vehicles for law enforcement use with special requirement vehicles eligible for purchase without regard to any price limitation otherwise established by law, $98,138,000, to remain available until expended, of which $31,279,000 shall be for inspections and other activities related to national security: *Provided*, That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities: *Provided further*, That payments and contributions collected and accepted for materials or services provided as part of such activities may be retained for use in covering the cost of such activities, and for providing information to the public with respect to the export administration and national security activities of the Department of Commerce and other export control programs of the United States and other governments.

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For grants for economic development assistance as provided by the Public Works and Economic Development Act of 1965, for trade adjustment assistance, and for grants authorized by section 27 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.), as added by section 603 of the America COMPETES Reauthorization Act of 2010 (Public Law 111–358), $220,000,000, to remain available until expended.

For an additional amount for ''Economic Development Assistance Programs'' for expenses related to disaster relief, long-term recovery, and restoration of infrastructure in areas that received a major disaster designation in 2011 pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)), $135,000,000, to remain available until expended: *Provided*, That such amount is designated by Congress as being for disaster relief pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99–177), as amended.

SALARIES AND EXPENSES

For necessary expenses of administering the economic development assistance programs as provided for by law, $37,166,000: *Provided*, That these funds may be used to monitor projects approved pursuant to title I of the Public Works Employment Act of 1976, title II of the Trade Act of 1974, and the Community Emergency Drought Relief Act of 1977.

MINORITY BUSINESS DEVELOPMENT AGENCY

MINORITY BUSINESS DEVELOPMENT

For necessary expenses of the Department of Commerce in fostering, promoting, and developing minority business enterprise, including expenses of grants, contracts, and other agreements with public or private organizations, $29,732,000.

ECONOMIC AND STATISTICAL ANALYSIS

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, of economic and statistical analysis programs of the Department of Commerce, $95,119,000.

BUREAU OF THE CENSUS

SALARIES AND EXPENSES

For expenses necessary for collecting, compiling, analyzing, preparing, and publishing statistics, provided for by law, $253,336,000: *Provided*, That from amounts provided herein, funds may be used for promotion, outreach, and marketing activities.

PERIODIC CENSUSES AND PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to collect and publish statistics for periodic censuses and programs provided for by law, $690,000,000, to remain available until September 30, 2013: *Provided*, That from amounts provided herein, funds may be used for additional promotion, outreach, and marketing activities: *Provided further*, That within the amounts appropriated, $1,000,000 shall be transferred to the

Office of the Inspector General for activities associated with carrying out investigations and audits related to the Bureau of the Census.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, as provided for by law, of the National Telecommunications and Information Administration (NTIA), $45,568,000, to remain available until September 30, 2013: *Provided*, That, notwithstanding 31 U.S.C. 1535(d), the Secretary of Commerce shall charge Federal agencies for costs incurred in spectrum management, analysis, operations, and related services, and such fees shall be retained and used as offsetting collections for costs of such spectrum services, to remain available until expended: *Provided further*, That the Secretary of Commerce is authorized to retain and use as offsetting collections all funds transferred, or previously transferred, from other Government agencies for all costs incurred in telecommunications research, engineering, and related activities by the Institute for Telecommunication Sciences of NTIA, in furtherance of its assigned functions under this paragraph, and such funds received from other Government agencies shall remain available until expended.

PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING AND CONSTRUCTION

For the administration of prior-year grants, recoveries and unobligated balances of funds previously appropriated are hereafter available for the administration of all open grants until their expiration.

UNITED STATES PATENT AND TRADEMARK OFFICE

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the United States Patent and Trademark Office (USPTO) provided for by law, including defense of suits instituted against the Under Secretary of Commerce for Intellectual Property and Director of the USPTO, $2,706,313,000 to remain available until expended: *Provided*, That the sum herein appropriated from the general fund shall be reduced as offsetting collections assessed and collected pursuant to 15 U.S.C. 1113 and 35 U.S.C. 41 and 376 are received during fiscal year 2012, so as to result in a fiscal year 2012 appropriation from the general fund estimated at $0: *Provided further*, That during fiscal year 2012, should the total amount of offsetting fee collections and the surcharge provided herein be less than $2,706,313,000 this amount shall be reduced accordingly: *Provided further*, That any amount received in excess of $2,706,313,000 in fiscal year 2012 and deposited in the Patent and Trademark Fee Reserve Fund shall remain available until expended: *Provided further*, That the Director of the Patent and Trademark Office shall submit a spending plan to the Committees on Appropriations of the House of Representatives and the Senate for any amounts made available by the preceding proviso and such spending plan shall be treated as a reprogramming under section 505 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section: *Provided further*, That from amounts provided herein, not to exceed $750 shall be made available in fiscal year 2012 for official reception and representation expenses: *Provided further*, That in fiscal year 2012 from the amounts made available for ''Salaries and Expenses'' for the USPTO, the amounts necessary to pay: (1) the difference between the percentage of basic pay contributed by the USPTO and employees under section 8334(a) of title 5, United States Code, and the normal cost percentage (as defined by section 8331(17) of that title) as provided by the Office of Personnel Management (OPM) for USPTO's specific use, of basic pay, of employees subject to subchapter III of chapter 83 of that title; and (2) the present value of the otherwise unfunded accruing costs, as determined by OPM for USPTO's specific use of post-retirement life insurance and post-retirement health benefits coverage for all USPTO employees who are enrolled in Federal Employees Health Benefits (FEHB) and Federal Employees Group Life Insurance (FEGLI), shall be transferred to the Civil Service Retirement and Disability Fund, the Employees Life Insurance Fund, and the Employees Health Benefits Fund, as appropriate, and shall be available for the authorized purposes of those accounts: *Provided further*, That any differences between the present value factors published in OPM's yearly 300 series benefit letters and the factors that OPM provides for PTO's specific use shall be recognized as an imputed cost on PTO's financial statements, where applicable: *Provided further*, That sections 801, 802, and 803 of division B, Public Law 108–447 shall remain in effect during fiscal year 2012: *Provided further*, That the Director may, this year, reduce by regulation fees payable for documents in patent and trademark matters, in connection with the filing of documents filed electronically in a form prescribed by the Director: *Provided further*, That there shall be a surcharge of 15 percent, as provided for by section 11(i) of the Leahy-Smith America Invents Act: *Provided further*, That hereafter the Director shall reduce fees for providing prioritized examination of utility and plant patent applications by 50 percent for small entities that qualify for reduced fees under 35 U.S.C. 41(h)(1), so long as the fees of the prioritized examination program are set to recover the estimated cost of the program: *Provided further*, That the receipts collected as a result of these surcharges shall be available within the amounts provided herein to the United States Patent and Trademark Office without fiscal year limitation, for all authorized activities and operations of the Office: *Provided further*, That within the amounts appropriated, $1,000,000 shall be transferred to the Office of Inspector General for activities associated with carrying out investigations and audits related to the USPTO.

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For necessary expenses of the National Institute of Standards and Technology, $500,000,000, to remain available until expended, of which not to exceed $9,000,000 may be transferred to the ''Working Capital Fund'': *Provided*, That not to exceed $5,000 shall be for official reception and representation expenses.

INDUSTRIAL TECHNOLOGY SERVICES

For necessary expenses of the Industrial Technology Services, $120,000,000 to remain available until expended: *Provided*, That of the amounts appropriated herein, $120,000,000 shall be for the Hollings Manufacturing Extension Partnership.

CONSTRUCTION OF RESEARCH FACILITIES

For construction of new research facilities, including architectural and engineering design, and for renovation and maintenance of existing facilities, not otherwise provided for the National Institute of Standards and Technology, as authorized by 15 U.S.C. 278c–278e, $60,000,000, to remain available until expended.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of activities authorized by law for the National Oceanic and Atmospheric Administration, including maintenance, operation, and hire of aircraft and vessels; grants, contracts, or other payments to nonprofit organizations for the purposes of conducting activities pursuant to cooperative agreements; and relocation of facilities, $3,134,327,000, to remain available until September 30, 2013, except for funds provided for cooperative enforcement, which shall remain available until September 30, 2014: *Provided*, That fees and donations received by the National Ocean Service for the management of national marine sanctuaries may be retained and used for the salaries and expenses associated with those activities, notwithstanding 31 U.S.C. 3302: *Provided further*, That in addition, $109,098,000 shall be derived by transfer from the fund entitled ''Promote and Develop Fishery Products and Research Pertaining to American Fisheries'': *Provided further*, That of the $3,250,425,000 provided for in direct obligations under this heading $3,134,327,000 is appropriated from the general fund, and $109,098,000 is provided by transfer and $7,000,000 is derived from recoveries of prior year obligations: *Provided further*, That payments of funds made available under this heading to the Department of Commerce Working Capital Fund including Department of Commerce General Counsel legal services shall not exceed $41,105,000: *Provided further*, That the total amount available for the National Oceanic and Atmospheric Administration corporate services administrative support costs shall not exceed $219,291,000: *Provided further*, That any deviation from the amounts designated for specific activities in the explanatory statement accompanying this Act, or any use of deobligated balances of funds provided under this heading in previous years, shall be subject to the procedures set forth in section 505 of this Act: *Provided further*, That in allocating grants under sections 306 and 306A of the Coastal Zone Management Act of 1972, as amended, no coastal State shall receive more than 5 percent or less than 1 percent of increased funds appropriated over the previous fiscal year.

In addition, for necessary retired pay expenses under the Retired Serviceman's Family Protection and Survivor Benefits Plan, and for payments for the medical care of retired personnel and their dependents under the Dependents Medical Care Act (10 U.S.C. 55), such sums as may be necessary.

PROCUREMENT, ACQUISITION AND CONSTRUCTION

For procurement, acquisition and construction of capital assets, including alteration and modification costs, of the National Oceanic and Atmospheric Administration (NOAA), $1,833,594,000, to remain available until September 30, 2014, except funds provided for construction of facilities which shall remain available until expended: *Provided*, That of the $1,841,594,000 provided for in direct obligations under this heading, $1,833,594,000 is appropriated from the general fund and $8,000,000 is provided from recoveries of prior year obligations: *Provided further*, That any deviation from the amounts designated for specific activities in the explanatory statement accompanying this Act, or any use of deobligated balances of funds provided under this heading in previous years, shall be subject to the procedures set forth in section 505 of this Act: *Provided further*, That the Secretary of Commerce shall include in budget justification materials that the Secretary submits to Congress in

support of the Department of Commerce budget (as submitted with the budget of the President under section 1105(a) of title 31, United States Code) an estimate for each NOAA Procurement, Acquisition or Construction project having a total of more than $5,000,000 and simultaneously the budget justification shall include an estimate of the budgetary requirements for each such project for each of the 5 subsequent fiscal years.

PACIFIC COASTAL SALMON RECOVERY FUND

For necessary expenses associated with the restoration of Pacific salmon populations, $65,000,000, to remain available until September 30, 2013: *Provided*, That of the funds provided herein the Secretary of Commerce may issue grants to the States of Washington, Oregon, Idaho, Nevada, California, and Alaska, and Federally recognized tribes of the Columbia River and Pacific Coast (including Alaska) for projects necessary for conservation of salmon and steelhead populations, for restoration of populations that are listed as threatened or endangered, or identified by a State as at-risk to be so-listed, for maintaining populations necessary for exercise of tribal treaty fishing rights or native subsistence fishing, or for conservation of Pacific coastal salmon and steelhead habitat, based on guidelines to be developed by the Secretary of Commerce: *Provided further*, That all funds shall be allocated based on scientific and other merit principles and shall not be available for marketing activities: *Provided further*, That funds disbursed to States shall be subject to a matching requirement of funds or documented in-kind contributions of at least 33 percent of the Federal funds.

FISHERMEN'S CONTINGENCY FUND

For carrying out the provisions of title IV of Public Law 95–372, not to exceed $350,000, to be derived from receipts collected pursuant to that Act, to remain available until expended.

FISHERIES FINANCE PROGRAM ACCOUNT

Subject to section 502 of the Congressional Budget Act of 1974, during fiscal year 2012, obligations of direct loans may not exceed $24,000,000 for Individual Fishing Quota loans and not to exceed $59,000,000 for traditional direct loans as authorized by the Merchant Marine Act of 1936: *Provided*, That none of the funds made available under this heading may be used for direct loans for any new fishing vessel that will increase the harvesting capacity in any United States fishery.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For expenses necessary for the departmental management of the Department of Commerce provided for by law, including not to exceed $5,000 for official reception and representation, $56,726,000.

RENOVATION AND MODERNIZATION

For expenses necessary, including blast windows, for the renovation and modernization of Department of Commerce facilities, $5,000,000, to remain available until expended.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978 (5 U.S.C. App.) (as amended), $26,946,000.

GENERAL PROVISIONS—DEPARTMENT OF COMMERCE

SEC. 101. During the current fiscal year, applicable appropriations and funds made available to the Department of Commerce by this Act shall be available for the activities specified in the Act of October 26, 1949 (15 U.S.C. 1514), to the extent and in the manner prescribed by the Act, and, notwithstanding 31 U.S.C. 3324, may be used for advanced payments not otherwise authorized only upon the certification of officials designated by the Secretary of Commerce that such payments are in the public interest.

SEC. 102. During the current fiscal year, appropriations made available to the Department of Commerce by this Act for salaries and expenses shall be available for hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344; services as authorized by 5 U.S.C. 3109; and uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902).

SEC. 103. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Commerce in this Act may be transferred between such appropriations, but no such appropriation shall be increased by more than 10 percent by any such transfers: *Provided*, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 505 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section: *Provided further*, That the Secretary of Commerce shall notify the Committees on Appropriations at least 15 days in advance of the acquisition or disposal of any capital asset (including land, structures, and equipment) not specifically provided for in this Act or any other law appropriating funds for the Department of Commerce: *Provided further*, That for the National Oceanic and Atmospheric Administration this section shall provide for transfers among appropriations made only to the National Oceanic and Atmospheric Administration and such appropriations may not be transferred and reprogrammed to other Department of Commerce bureaus and appropriation accounts.

SEC. 104. Any costs incurred by a department or agency funded under this title resulting from personnel actions taken in response to funding reductions included in this title or from actions taken for the care and protection of loan collateral or grant property shall be absorbed within the total budgetary resources available to such department or agency: *Provided*, That the authority to transfer funds between appropriations accounts as may be necessary to carry out this section is provided in addition to authorities included elsewhere in this Act: *Provided further*, That use of funds to carry out this section shall be treated as a reprogramming of funds under section 505 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 105. The requirements set forth by section 112 of division B of Public Law 110–161 are hereby adopted by reference.

SEC. 106. Notwithstanding any other law, the Secretary may furnish services (including but not limited to utilities, telecommunications, and security services) necessary to support the operation, maintenance, and improvement of space that persons, firms or organizations are authorized pursuant to the Public Buildings Cooperative Use Act of 1976 or other authority to use or occupy in the Herbert C. Hoover Building, Washington, DC, or other buildings, the maintenance, operation, and protection of which has been delegated to the Secretary from the Administrator of General Services pursuant to the Federal Property and Administrative Services Act of 1949, as amended, on a reimbursable or non-reimbursable basis. Amounts received as reimbursement for services provided under this section or the authority under which the use or occupancy of the space is authorized, up to $200,000, shall be credited to the appropriation or fund which initially bears the costs of such services.

SEC. 107. Nothing in this title shall be construed to prevent a grant recipient from deterring child pornography, copyright infringement, or any other unlawful activity over its networks.

SEC. 108. The administration of the National Oceanic and Atmospheric Administration is authorized to use, with their consent, with reimbursement and subject to the limits of available appropriations, the land, services, equipment, personnel, and facilities of any department, agency or instrumentality of the United States, or of any State, local government, Indian tribal government, Territory or possession, or of any political subdivision thereof, or of any foreign government or international organization for purposes related to carrying out the responsibilities of any statute administered by the National Oceanic and Atmospheric Administration.

SEC. 109. All balances in the Coastal Zone Management Fund, whether unobligated or unavailable, are hereby permanently cancelled, and notwithstanding section 308(b) of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1456a), any future payments to the Fund made pursuant to sections 307 (16 U.S.C. 1456) and 308 (16 U.S.C. 1456a) of the Coastal Zone Management Act of 1972, as amended, shall, in this fiscal year and any future fiscal years, be treated in accordance with the Federal Credit Reform Act of 1990, as amended.

SEC. 110. There is established in the Treasury a non-interest bearing fund to be known as the ''Fisheries Enforcement Asset Forfeiture Fund'', which shall consist of all sums received as fines, penalties, and forfeitures of property for violations of any provisions of 16 U.S.C. chapter 38 or of any other marine resource law enforced by the Secretary of Commerce, including the Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.) and with the exception of collections pursuant to 16 U.S.C. 1437, which are currently deposited in the Operations, Research, and Facilities account: *Provided*, That all unobligated balances that have been collected pursuant to 16 U.S.C. 1861 or any other marine resource law enforced by the Secretary of Commerce with the exception of 16 U.S.C. 1437 shall be transferred from the Operations, Research, and Facilities account into the Fisheries Enforcement Asset Forfeiture Fund and shall remain available until expended.

SEC. 111. There is established in the Treasury a non-interest bearing fund to be known as the ''Sanctuaries Enforcement Asset Forfeiture Fund'', which shall consist of all sums received as fines, penalties, and forfeitures of property for violations of any provisions of 16 U.S.C. chapter 38, which are currently deposited in the Operations, Research, and Facilities account: *Provided*, That all unobligated balances that have been collected pursuant to 16 U.S.C. 1437 shall be transferred from the Operations, Research, and Facilities account into the Sanctuaries Enforcement Asset Forfeiture Fund and shall remain available until expended.

SEC. 112. Notwithstanding any other provision of law, the National Oceanic and Atmospheric Administration is authorized to receive and expend funds made available by any Federal agency, State or subdivision thereof, public or private organization, or individual to carry out any statute administered by the National Oceanic and Atmospheric Administration: *Provided*, That use of funds to carry out this section shall be treated as a reprogramming of funds under section 505 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 113. (a) The Secretary of State shall ensure participation in the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (''Commission'') and its subsidiary bodies by American Samoa, Guam, and the Northern Mariana Islands (collectively, the U.S. Participating Territories) to the same extent provided to the territories of other nations.

(b) The U.S. Participating Territories are each authorized to use, assign, allocate, and manage catch limits of highly migratory fish stocks, or fishing effort limits, agreed to by the Commission for the participating territories of the Convention for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean, through arrangements with U.S. vessels with permits issued under the Pelagics Fishery Management Plan of the Western Pacific Region. Vessels under such arrangements are integral to the domestic fisheries of the U.S. Participating Territories provided that such arrangements shall impose no requirements regarding where such vessels must fish or land their catch and shall be funded by deposits to the Western Pacific Sustainable Fisheries Fund in support of fisheries development projects identified in a Territory's Marine Conservation Plan and adopted pursuant to section 204 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1824). The Secretary of Commerce shall attribute catches made by vessels operating under such arrangements to the U.S. Participating Territories for the purposes of annual reporting to the Commission.

(c) The Western Pacific Regional Fisheries Management Council—

(1) is authorized to accept and deposit into the Western Pacific Sustainable Fisheries Fund funding for arrangements pursuant to subsection (b);

(2) shall use amounts deposited under paragraph (1) that are attributable to a particular U.S. Participating Territory only for implementation of that Territory's Marine Conservation Plan adopted pursuant to section 204 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1824); and

(3) shall recommend an amendment to the Pelagics Fishery Management Plan for the Western Pacific Region, and associated regulations, to implement this section.

(d) Subsection (b) shall remain in effect until such time as—

(1) the Western Pacific Regional Fishery Management Council recommends an amendment to the Pelagics Fishery Management Plan for the Western Pacific Region, and implementing regulations, to the Secretary of Commerce that authorize use, assignment, allocation, and management of catch limits of highly migratory fish stocks, or fishing effort limits, established by the Commission and applicable to U.S. Participating Territories;

(2) the Secretary of Commerce approves the amendment as recommended; and

(3) such implementing regulations become effective.

This title may be cited as the ''Department of Commerce Appropriations Act, 2012''.

TITLE II

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the administration of the Department of Justice, $115,886,000, of which not to exceed $4,000,000 for security and construction of Department of Justice facilities shall remain available until expended: *Provided*, That the Attorney General is authorized to transfer funds appropriated within General Administration to any office in this account: *Provided further*, That $18,903,000 is for Department Leadership; $8,311,000 is for Intergovernmental Relations/External Affairs; $12,925,000 is for Executive Support/Professional Responsibility; and $75,747,000 is for the Justice Management Division: *Provided further*, That any change in amounts specified in the preceding proviso greater than 5 percent shall be submitted for approval to the House and Senate Committees on Appropriations consistent with the terms of section 505 of this Act: *Provided further*, That this transfer authority is in addition to transfers authorized under section 505 of this Act.

NATIONAL DRUG INTELLIGENCE CENTER

For necessary expenses of the National Drug Intelligence Center, including reimbursement of Air Force personnel for the National Drug Intelligence Center to support the Department of Defense's counter-drug intelligence responsibilities, $20,000,000: *Provided*, That the National Drug Intelligence Center shall maintain the personnel and technical resources to provide timely support to law enforcement authorities and the intelligence community by conducting document and computer exploitation of materials collected in Federal, State, and local law enforcement activity associated with counter-drug, counterterrorism, and national security investigations and operations.

JUSTICE INFORMATION SHARING TECHNOLOGY

For necessary expenses for information sharing technology, including planning, development, deployment and departmental direction, $47,000,000, to remain available until expended.

TACTICAL LAW ENFORCEMENT WIRELESS COMMUNICATIONS

For the costs of developing and implementing a nationwide Integrated Wireless Network supporting Federal law enforcement communications, and for the costs of operations and maintenance of existing Land Mobile Radio legacy systems, $87,000,000, to remain available until expended: *Provided*, That the Attorney General shall transfer to this account all funds made available to the Department of Justice for the purchase of portable and mobile radios: *Provided further*, That any transfer made under the preceding proviso shall be subject to section 505 of this Act.

ADMINISTRATIVE REVIEW AND APPEALS (INCLUDING TRANSFER OF FUNDS)

For expenses necessary for the administration of pardon and clemency petitions and immigration-related activities, $294,082,000, of which $4,000,000 shall be derived by transfer from the Executive Office for Immigration Review fees deposited in the ''Immigration Examinations Fee'' account.

DETENTION TRUSTEE

For necessary expenses of the Federal Detention Trustee, $1,563,453,000, to remain available until expended: *Provided*, That the Trustee shall be responsible for managing the Justice Prisoner and Alien Transportation System: *Provided further*, That not to exceed $20,000,000 shall be considered ''funds appropriated for State and local law enforcement assistance'' pursuant to 18 U.S.C. 4013(b).

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General, $84,199,000, including not to exceed $10,000 to meet unforeseen emergencies of a confidential character.

UNITED STATES PAROLE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the United States Parole Commission as authorized, $12,577,000.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For expenses necessary for the legal activities of the Department of Justice, not otherwise provided for, including not to exceed $20,000 for expenses of collecting evidence, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; and rent of private or Government-owned space in the District of Columbia, $846,099,000, of which not to exceed $10,000,000 for litigation support contracts shall remain available until expended: *Provided*, That of the total amount appropriated, not to exceed $7,500 shall be available to INTERPOL Washington for official reception and representation expenses: *Provided further*, That notwithstanding section 205 of this Act, upon a determination by the Attorney General that emergent circumstances require additional funding for litigation activities of the Civil Division, the Attorney General may transfer such amounts to ''Salaries and Expenses, General Legal Activities'' from available appropriations for the current fiscal year for the Department of Justice, as may be necessary to respond to such circumstances: *Provided further*, That any transfer pursuant to the previous proviso shall be treated as a reprogramming under section 505 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section: *Provided further*, That of the amount appropriated, such sums as may be necessary shall be available to reimburse the Office of Personnel Management for salaries and expenses associated with the election monitoring program under section 8 of the Voting Rights Act of 1965 (42 U.S.C. 1973f): *Provided further*, That of the amounts provided under this heading for the election monitoring program $3,390,000, shall remain available until expended.

In addition, for reimbursement of expenses of the Department of Justice associated with processing cases under the National Childhood Vaccine Injury Act of 1986, not to exceed $7,833,000, to be appropriated from the Vaccine Injury Compensation Trust Fund.

SALARIES AND EXPENSES, ANTITRUST DIVISION

For expenses necessary for the enforcement of antitrust and kindred laws, $159,587,000, to remain available until expended: *Provided*, That notwithstanding any other provision of law, fees collected for premerger notification filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18a), regardless of the year of collection (and estimated to be $108,000,000 in fiscal year 2012), shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: *Provided further*, That the sum herein appropriated from the general fund shall be reduced as such offsetting collections are received during fiscal year 2012, so as to result in a final fiscal year 2012 appropriation from the general fund estimated at $51,587,000.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For necessary expenses of the Offices of the United States Attorneys, including intergovernmental and cooperative agreements, $1,891,532,000: *Provided*, That of the total amount appropriated, not to exceed $6,000 shall be available for official reception and representation expenses: *Provided further*, That not to exceed $25,000,000 shall remain available until expended: *Provided further*, That of the amount provided under this heading, not less than $43,184,000 shall be used for salaries and expenses for assistant

U.S. Attorneys to carry out section 704 of the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109–248) concerning the prosecution of offenses relating to the sexual exploitation of children.

UNITED STATES TRUSTEE SYSTEM FUND

For necessary expenses of the United States Trustee Program, as authorized, $234,115,000, to remain available until expended and to be derived from the United States Trustee System Fund: *Provided*, That notwithstanding any other provision of law, deposits to the Fund shall be available in such amounts as may be necessary to pay refunds due depositors: *Provided further*, That, notwithstanding any other provision of law, $234,115,000 of offsetting collections pursuant to 28 U.S.C. 589a(b) shall be retained and used for necessary expenses in this appropriation and shall remain available until expended: *Provided further*, That the sum herein appropriated from the Fund shall be reduced as such offsetting collections are received during fiscal year 2012, so as to result in a final fiscal year 2012 appropriation from the Fund estimated at $0.

SALARIES AND EXPENSES, FOREIGN CLAIMS SETTLEMENT COMMISSION

For expenses necessary to carry out the activities of the Foreign Claims Settlement Commission, including services as authorized by section 3109 of title 5, United States Code, $2,071,000.

FEES AND EXPENSES OF WITNESSES

For fees and expenses of witnesses, for expenses of contracts for the procurement and supervision of expert witnesses, for private counsel expenses, including advances, and for expenses of foreign counsel, $270,000,000, to remain available until expended: *Provided*, That not to exceed $10,000,000 may be made available for construction of buildings for protected witness safesites: *Provided further*, That not to exceed $3,000,000 may be made available for the purchase and maintenance of armored and other vehicles for witness security caravans: *Provided further*, That not to exceed $11,000,000 may be made available for the purchase, installation, maintenance, and upgrade of secure telecommunications equipment and a secure automated information network to store and retrieve the identities and locations of protected witnesses.

SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE

For necessary expenses of the Community Relations Service, $11,227,000: *Provided*, That notwithstanding section 205 of this Act, upon a determination by the Attorney General that emergent circumstances require additional funding for conflict resolution and violence prevention activities of the Community Relations Service, the Attorney General may transfer such amounts to the Community Relations Service, from available appropriations for the current fiscal year for the Department of Justice, as may be necessary to respond to such circumstances: *Provided further*, That any transfer pursuant to the preceding proviso shall be treated as a reprogramming under section 505 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

ASSETS FORFEITURE FUND

For expenses authorized by 28 U.S.C. 524(c)(1)(B), (F), and (G), $20,990,000, to be derived from the Department of Justice Assets Forfeiture Fund.

UNITED STATES MARSHALS SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Marshals Service, $1,101,041,000; of which not to exceed $6,000 shall be available for official reception and representation expenses; and of which not to exceed $20,000,000 shall remain available until expended.

CONSTRUCTION

For construction in space controlled, occupied or utilized by the United States Marshals Service for prisoner holding and related support, $12,000,000, to remain available until expended; of which not less than $9,696,000 shall be available for the costs of courthouse security equipment, including furnishings, relocations, and telephone systems and cabling.

NATIONAL SECURITY DIVISION

SALARIES AND EXPENSES

For expenses necessary to carry out the activities of the National Security Division, $86,007,000; of which not to exceed $5,000,000 for information technology systems shall remain available until expended: *Provided*, That notwithstanding section 205 of this Act, upon a determination by the Attorney General that emergent circumstances require additional funding for the activities of the National Security Division, the Attorney General may transfer such amounts to this heading from available appropriations for the current fiscal year for the Department of Justice, as may be necessary to respond to such circumstances: *Provided further*, That any transfer pursuant to the preceding proviso shall be treated as a reprogramming under section 505 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

INTERAGENCY LAW ENFORCEMENT

INTERAGENCY CRIME AND DRUG ENFORCEMENT

For necessary expenses for the identification, investigation, and prosecution of individuals associated with the most significant drug trafficking and affiliated money laundering organizations not otherwise provided for, to include inter-governmental agreements with State and local law enforcement agencies engaged in the investigation and prosecution of individuals involved in organized crime drug trafficking, $516,962,000, of which $50,000,000 shall remain available until expended: *Provided*, That any amounts obligated from appropriations under this heading may be used under authorities available to the organizations reimbursed from this appropriation.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For necessary expenses of the Federal Bureau of Investigation for detection, investigation, and prosecution of crimes against the United States, $7,785,000,000, of which not to exceed $150,000,000 shall remain available until expended: *Provided*, That not to exceed $153,750 shall be available for official reception and representation expenses.

CONSTRUCTION

For all necessary expenses, to include the cost of equipment, furniture, and information technology requirements, related to construction or acquisition of buildings, facilities and sites by purchase, or as otherwise authorized by law; conversion, modification and extension of Federally owned buildings; and preliminary planning and design of projects; $75,000,000, to remain available until expended.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Drug Enforcement Administration, including not to exceed $70,000 to meet unforeseen emergencies of a confidential character pursuant to 28 U.S.C. 530C; and expenses for conducting drug education and training programs, including travel and related expenses for participants in such programs and the distribution of items of token value that promote the goals of such programs, $1,900,084,000; of which not to exceed $75,000,000 shall remain available until expended; and of which not to exceed $75,000 shall be available for official reception and representation expenses.

CONSTRUCTION

For necessary expenses, to include the cost of equipment, furniture, and information technology requirements, related to construction or acquisition of buildings; and operation and maintenance of secure work environment facilities and secure networking capabilities; $10,000,000, to remain available until expended.

BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES

SALARIES AND EXPENSES

For necessary expenses of the Bureau of Alcohol, Tobacco, Firearms and Explosives, not to exceed $30,000 for official reception and representation expenses; for training of State and local law enforcement agencies with or without reimbursement, including training in connection with the training and acquisition of canines for explosives and fire accelerants detection; and for provision of laboratory assistance to State and local law enforcement agencies, with or without reimbursement, $1,090,292,000, of which not to exceed $1,000,000 shall be available for the payment of attorneys' fees as provided by section 924(d)(2) of title 18, United States Code; and of which not to exceed $20,000,000 shall remain available until expended: *Provided*, That no funds appropriated herein shall be available for salaries or administrative expenses in connection with consolidating or centralizing, within the Department of Justice, the records, or any portion thereof, of acquisition and disposition of firearms maintained by Federal firearms licensees: *Provided further*, That no funds appropriated herein shall be used to pay administrative expenses or the compensation of any officer or employee of the United States to implement an amendment or amendments to 27 CFR 478.118 or to change the definition of ''Curios or relics'' in 27 CFR 478.11 or remove any item from ATF Publication 5300.11 as it existed on January 1, 1994: *Provided further*, That none of the funds appropriated herein shall be available to investigate or act upon applications for relief from Federal firearms disabilities under 18 U.S.C. 925(c): *Provided further*, That such funds shall be available to investigate and act upon applications filed by corporations for relief from Federal firearms disabilities under section 925(c) of title 18, United States Code: *Provided further*, That no funds made available by this or any other Act may be used to transfer the functions, missions, or activities of the Bureau of Alcohol, Tobacco, Firearms and Explosives to other agencies or Departments in fiscal year 2012: *Provided further*, That, beginning in fiscal year 2012 and thereafter, no funds appropriated under this or any other Act may be used to disclose part or all of the contents of the Firearms Trace System database maintained by the National Trace Center of the Bureau of Alcohol, Tobacco, Firearms and Explosives or any information required to be kept by licensees pursuant to section 923(g) of title 18, United States Code, or required to be reported pursuant to paragraphs (3) and (7) of such section 923(g), except to: (1) a Federal, State, local, or tribal law enforcement agency, or a Federal, State, or local prosecutor; or (2) a foreign law enforcement agency solely in connection with or for use in a criminal investigation or prosecution; or (3) a Federal agency for a national security or intelligence purpose; unless such disclosure of such data to any of the entities described in (1), (2) or (3) of this proviso would

compromise the identity of any undercover law enforcement officer or confidential informant, or interfere with any case under investigation; and no person or entity described in (1), (2) or (3) shall knowingly and publicly disclose such data; and all such data shall be immune from legal process, shall not be subject to subpoena or other discovery, shall be inadmissible in evidence, and shall not be used, relied on, or disclosed in any manner, nor shall testimony or other evidence be permitted based on the data, in a civil action in any State (including the District of Columbia) or Federal court or in an administrative proceeding other than a proceeding commenced by the Bureau of Alcohol, Tobacco, Firearms and Explosives to enforce the provisions of chapter 44 of such title, or a review of such an action or proceeding; except that this proviso shall not be construed to prevent: (A) the disclosure of statistical information concerning total production, importation, and exportation by each licensed importer (as defined in section 921(a)(9) of such title) and licensed manufacturer (as defined in section 921(a)(10) of such title); (B) the sharing or exchange of such information among and between Federal, State, local, or foreign law enforcement agencies, Federal, State, or local prosecutors, and Federal national security, intelligence, or counterterrorism officials; or (C) the publication of annual statistical reports on products regulated by the Bureau of Alcohol, Tobacco, Firearms and Explosives, including total production, importation, and exportation by each licensed importer (as so defined) and licensed manufacturer (as so defined), or statistical aggregate data regarding firearms traffickers and trafficking channels, or firearms misuse, felons, and trafficking investigations: *Provided further*, That no funds made available by this or any other Act shall be expended to promulgate or implement any rule requiring a physical inventory of any business licensed under section 923 of title 18, United States Code: *Provided further*, That no funds under this Act may be used to electronically retrieve information gathered pursuant to 18 U.S.C. 923(g)(4) by name or any personal identification code: *Provided further*, That no funds authorized or made available under this or any other Act may be used to deny any application for a license under section 923 of title 18, United States Code, or renewal of such a license due to a lack of business activity, provided that the applicant is otherwise eligible to receive such a license, and is eligible to report business income or to claim an income tax deduction for business expenses under the Internal Revenue Code of 1986.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For necessary expenses of the Federal Prison System for the administration, operation, and maintenance of Federal penal and correctional institutions, including purchase (not to exceed 835, of which 808 are for replacement only) and hire of law enforcement and passenger motor vehicles, and for the provision of technical assistance and advice on corrections related issues to foreign governments, $6,589,781,000: *Provided*, That the Attorney General may transfer to the Health Resources and Services Administration such amounts as may be necessary for direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions: *Provided further*, That the Director of the Federal Prison System, where necessary, may enter into contracts with a fiscal agent or fiscal intermediary claims processor to determine the amounts payable to persons who, on behalf of the Federal Prison System, furnish health services to individuals committed to the custody of the Federal Prison System: *Provided further*, That not to exceed $4,500 shall be available for official reception and representation expenses: *Provided further*, That not to exceed $50,000,000 shall remain available for necessary operations until September 30, 2013: *Provided further*, That, of the amounts provided for contract confinement, not to exceed $20,000,000 shall remain available until expended to make payments in advance for grants, contracts and reimbursable agreements, and other expenses authorized by section 501(c) of the Refugee Education Assistance Act of 1980 (8 U.S.C. 1522 note), for the care and security in the United States of Cuban and Haitian entrants: *Provided further*, That the Director of the Federal Prison System may accept donated property and services relating to the operation of the prison card program from a not-for-profit entity which has operated such program in the past notwithstanding the fact that such not-for-profit entity furnishes services under contracts to the Federal Prison System relating to the operation of pre-release services, halfway houses, or other custodial facilities.

BUILDINGS AND FACILITIES

For planning, acquisition of sites and construction of new facilities; purchase and acquisition of facilities and remodeling, and equipping of such facilities for penal and correctional use, including all necessary expenses incident thereto, by contract or force account; and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account, $90,000,000, to remain available until expended, of which not less than $66,965,000 shall be available only for modernization, maintenance and repair, and of which not to exceed $14,000,000 shall be available to construct areas for inmate work programs: *Provided*, That labor of United States prisoners may be used for work performed under this appropriation: *Provided further*, That none of the funds provided under this heading in this or any prior Act shall be available for the acquisition of any facility that is to be used wholly or in part for the incarceration or detention of any individual detained at Naval Station, Guantanamo Bay, Cuba, as of June 24, 2009.

FEDERAL PRISON INDUSTRIES, INCORPORATED

The Federal Prison Industries, Incorporated, is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available, and in accord with the law, and to make such contracts and commitments, without regard to fiscal year limitations as provided by section 9104 of title 31, United States Code, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, including purchase (not to exceed five for replacement only) and hire of passenger motor vehicles.

LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL PRISON INDUSTRIES, INCORPORATED

Not to exceed $2,700,000 of the funds of the Federal Prison Industries, Incorporated shall be available for its administrative expenses, and for services as authorized by section 3109 of title 5, United States Code, to be computed on an accrual basis to be determined in accordance with the corporation's current prescribed accounting system, and such amounts shall be exclusive of depreciation, payment of claims, and expenditures which such accounting system requires to be capitalized or charged to cost of commodities acquired or produced, including selling and shipping expenses, and expenses in connection with acquisition, construction, operation, maintenance, improvement, protection, or disposition of facilities and other property belonging to the corporation or in which it has an interest.

STATE AND LOCAL LAW ENFORCEMENT ACTIVITIES

OFFICE ON VIOLENCE AGAINST WOMEN

VIOLENCE AGAINST WOMEN PREVENTION AND PROSECUTION PROGRAMS

For grants, contracts, cooperative agreements, and other assistance for the prevention and prosecution of violence against women, as authorized by the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) (''the 1968 Act''); the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322) (''the 1994 Act''); the Victims of Child Abuse Act of 1990 (Public Law 101–647) (''the 1990 Act''); the Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act of 2003 (Public Law 108–21); the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.) (''the 1974 Act''); the Victims of Trafficking and Violence Protection Act of 2000 (Public Law 106–386) (''the 2000 Act''); and the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Public Law 109–162) (''the 2005 Act''); and for related victims services, $417,663,000, to remain available until expended: *Provided*, That except as otherwise provided by law, not to exceed 3 percent of funds made available under this heading may be used for expenses related to evaluation, training, and technical assistance: *Provided further*, That of the amount provided—

(1) $194,000,000 is for grants to combat violence against women, as authorized by part T of the 1968 Act, of which, notwithstanding such part T, $10,000,000 shall be available for programs relating to children exposed to violence;

(2) $25,000,000 is for transitional housing assistance grants for victims of domestic violence, stalking or sexual assault as authorized by section 40299 of the 1994 Act;

(3) $3,000,000 is for the National Institute of Justice for research and evaluation of violence against women and related issues addressed by grant programs of the Office on Violence Against Women;

(4) $10,000,000 is for a grant program to provide services to advocate for and respond to youth victims of domestic violence, dating violence, sexual assault, and stalking; assistance to children and youth exposed to such violence; programs to engage men and youth in preventing such violence; and assistance to middle and high school students through education and other services related to such violence: *Provided*, That unobligated balances available for the programs authorized by sections 41201, 41204, 41303 and 41305 of the 1994 Act shall be available for this program: *Provided further*, That 10 percent of the total amount available for this grant program shall be available for grants under the program authorized by section 2015 of the 1968 Act;

(5) $45,913,000 is for grants to encourage arrest policies as authorized by part U of the 1968 Act, of which $5,000,000 is for a homicide initiative;

(6) $25,000,000 is for sexual assault victims assistance, as authorized by section 41601 of the 1994 Act;

(7) $34,000,000 is for rural domestic violence and child abuse enforcement assistance grants, as authorized by section 40295 of the 1994 Act;

(8) $9,000,000 is for grants to reduce violent crimes against women on campus, as authorized by section 304 of the 2005 Act;

(9) $45,000,000 is for legal assistance for victims, as authorized by section 1201 of the 2000 Act;

(10) $4,000,000 is for enhanced training and services to end violence against and abuse of

women in later life, as authorized by section 40802 of the 1994 Act;

(11) $11,250,000 is for the safe havens for children program, as authorized by section 1301 of the 2000 Act;

(12) $5,000,000 is for education and training to end violence against and abuse of women with disabilities, as authorized by section 1402 of the 2000 Act;

(13) $4,000,000 is for the court training and improvements program, as authorized by section 41002 of the 1994 Act, of which $1,000,000 is to be used for a family court initiative;

(14) $1,000,000 is for the National Resource Center on Workplace Responses to assist victims of domestic violence, as authorized by section 41501 of the 1994 Act;

(15) $1,000,000 is for analysis and research on violence against Indian women, as authorized by section 904 of the 2005 Act; and

(16) $500,000 is for the Office on Violence Against Women to establish a national clearinghouse that provides training and technical assistance on issues relating to sexual assault of American Indian and Alaska Native women.

SALARIES AND EXPENSES

For necessary expenses, not elsewhere specified in this title, for management and administration of programs within the Office on Violence Against Women, $20,580,000.

OFFICE OF JUSTICE PROGRAMS

RESEARCH, EVALUATION, AND STATISTICS

(INCLUDING TRANSFER OF FUNDS)

For grants, contracts, cooperative agreements, and other assistance authorized by title I of the Omnibus Crime Control and Safe Streets Act of 1968 (''the 1968 Act)''; the Juvenile Justice and Delinquency Prevention Act of 1974 (''the 1974 Act''); the Missing Children's Assistance Act (42 U.S.C. 5771 et seq.); the Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act of 2003 (Public Law 108–21); the Justice for All Act of 2004 (Public Law 108–405); the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Public Law 109–162) (''the 2005 Act''); the Victims of Child Abuse Act of 1990 (Public Law 101–647); the Second Chance Act of 2007 (Public Law 110–199); the Victims of Crime Act of 1984 (Public Law 98–473); the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109–248) (''the Adam Walsh Act''); the PROTECT Our Children Act of 2008 (Public Law 110–401); subtitle D of title II of the Homeland Security Act of 2002 (Public Law 107–296) (''the 2002 Act''); and other programs; $121,000,000, to remain available until expended, of which—

(1) $45,000,000 is for criminal justice statistics programs, and other activities, as authorized by part C of title I of the 1968 Act, of which $36,000,000 is for the administration and redesign of the National Crime Victimization Survey;

(2) $40,000,000 is for research, development, and evaluation programs, and other activities as authorized by part B of title I of the 1968 Act and subtitle D of title II of the 2002 Act: *Provided,* That of the amounts provided under this heading, $5,000,000 is transferred directly to the National Institute of Standards and Technology's Office of Law Enforcement Standards from the National Institute of Justice for research, testing and evaluation programs;

(3) $1,000,000 is for an evaluation clearinghouse program; and

(4) $35,000,000 is for regional information sharing activities, as authorized by part M of title I of the 1968 Act.

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

(INCLUDING TRANSFER OF FUNDS)

For grants, contracts, cooperative agreements, and other assistance authorized by the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322) (''the 1994 Act''); the Omnibus Crime Control and Safe Streets Act of 1968 (''the 1968 Act''); the Justice for All Act of 2004 (Public Law 108–405); the Victims of Child Abuse Act of 1990 (Public Law 101–647) (''the 1990 Act''); the Trafficking Victims Protection Reauthorization Act of 2005 (Public Law 109–164); the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Public Law 109–162) (''the 2005 Act''); the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109–248) (''the Adam Walsh Act''); the Victims of Trafficking and Violence Protection Act of 2000 (Public Law 106–386); the NICS Improvement Amendments Act of 2007 (Public Law 110–180); subtitle D of title II of the Homeland Security Act of 2002 (Public Law 107–296) (''the 2002 Act''); the Second Chance Act of 2007 (Public Law 110–199); the Prioritizing Resources and Organization for Intellectual Property Act of 2008 (Public Law 110–403); the Victims of Crime Act of 1984 (Public Law 98–473); the Mentally Ill Offender Treatment and Crime Reduction Reauthorization and Improvement Act of 2008 (Public Law 110–416); and other programs; $1,063,498,000, to remain available until expended as follows—

(1) $395,000,000 for the Edward Byrne Memorial Justice Assistance Grant program as authorized by subpart 1 of part E of title I of the 1968 Act (except that section 1001(c), and the special rules for Puerto Rico under section 505(g), of title I of the 1968 Act shall not apply for purposes of this Act); and, notwithstanding such subpart 1, to support innovative, place-based, evidence-based approaches to fighting crime and improving public safety, of which $3,000,000 is for a program to improve State and local law enforcement intelligence capabilities including antiterrorism training and training to ensure that constitutional rights, civil liberties, civil rights, and privacy interests are protected throughout the intelligence process, $4,000,000 is for a State and local assistance help desk and diagnostic center program, $5,000,000 is for a program to improve State, local and tribal probation supervision efforts and strategies, and $3,000,000 is for a Preventing Violence Against Law Enforcement Officer Resilience and Survivability Initiative (VALOR): *Provided,* That funds made available under this heading may be used at the discretion of the Assistant Attorney General for the Office of Justice Programs to train Federal law enforcement under the VALOR Officer Safety Training Initiative;

(2) $273,000,000 for the State Criminal Alien Assistance Program, as authorized by section 241(i)(5) of the Immigration and Nationality Act (8 U.S.C. 1231(i)(5)): *Provided,* That no jurisdiction shall request compensation for any cost greater than the actual cost for Federal immigration and other detainees housed in State and local detention facilities;

(3) $20,000,000 for the Northern and Southwest Border Prosecutor Initiatives to reimburse State, county, parish, tribal or municipal governments for costs associated with the prosecution of criminal cases declined by local offices of the United States Attorneys;

(4) $21,000,000 for competitive grants to improve the functioning of the criminal justice system, to prevent or combat juvenile delinquency, and to assist victims of crime (other than compensation);

(5) $10,500,000 for victim services programs for victims of trafficking, as authorized by section 107(b)(2) of Public Law 106–386 and for programs authorized under Public Law 109–164: *Provided,* That no less than $4,690,000 shall be for victim services grants for foreign national victims of trafficking;

(6) $35,000,000 for Drug Courts, as authorized by section 1001(25)(A) of title I of the 1968 Act;

(7) $9,000,000 for mental health courts and adult and juvenile collaboration program grants, as authorized by parts V and HH of title I of the 1968 Act, and the Mentally Ill Offender Treatment and Crime Reduction Reauthorization and Improvement Act of 2008 (Public Law 110–416);

(8) $10,000,000 for grants for Residential Substance Abuse Treatment for State Prisoners, as authorized by part S of title I of the 1968 Act;

(9) $4,000,000 for the Capital Litigation Improvement Grant Program, as authorized by section 426 of Public Law 108–405;

(10) $10,000,000 for economic, high technology and Internet crime prevention grants, as authorized by section 401 of Public Law 110–403;

(11) $5,000,000 for a student loan repayment assistance program pursuant to section 952 of Public Law 110–315;

(12) $23,000,000 for activities, including sex offender management assistance, authorized by the Adam Walsh Act and the Violent Crime Control Act of 1994 (Public Law 103–322);

(13) $10,000,000 for an initiative relating to children exposed to violence;

(14) $20,000,000 for an Edward Byrne Memorial criminal justice innovation program;

(15) $24,850,000 for the matching grant program for law enforcement armor vests, as authorized by section 2501 of title I of the 1968 Act: *Provided,* That $1,500,000 is transferred directly to the National Institute of Standards and Technology's Office of Law Enforcement Standards for research, testing and evaluation programs;

(16) $1,000,000 for the National Sex Offender Public Web site;

(17) $10,000,000 for competitive and evidence-based programs to reduce gun crime and gang violence;

(18) $10,000,000 for grants to assist State and tribal governments as authorized by the NICS Improvement Amendments Act of 2007 (Public Law 110–180);

(19) $8,000,000 for the National Criminal History Improvement Program for grants to upgrade criminal records;

(20) $15,000,000 for Paul Coverdell Forensic Sciences Improvement Grants under part BB of title I of the 1968 Act;

(21) $131,000,000 for DNA-related and forensic programs and activities, of which—

(A) $123,000,000 is for the purposes of DNA analysis and DNA capacity enhancement as defined in the DNA Analysis Backlog Elimination Act of 2000 (the Debbie Smith DNA Backlog Grant Program), of which not less than $85,500,000 is to be used for grants to crime laboratories for purposes under 42 U.S.C. 14135, section (a); not less than $11,000,000 is to be used for the purposes of the Solving Cold Cases with DNA Grant Program; not less than $11,000,000 is to be used to audit and report on the extent of the backlog; and the remainder of funds appropriated under this paragraph may be used to support training programs specific to the needs of DNA laboratory personnel, and for programs outlined in sections 303, 304, 305 and 308 of Public Law 108–405;

(B) $4,000,000 is for the purposes described in the Kirk Bloodsworth Post-Conviction DNA Testing Program (Public Law 108–405, section 412); and

(C) $4,000,000 is for Sexual Assault Forensic Exam Program Grants as authorized by section 304 of Public Law 108–405.

(22) $2,500,000 for the court-appointed special advocate program, as authorized by section 217 of the 1990 Act;

(23) $1,500,000 for child abuse training programs for judicial personnel and practitioners, as authorized by section 222 of the 1990 Act; and

(24) $3,000,000 for grants and technical assistance in support of the National Forum on Youth Violence Prevention:

Provided, That if a unit of local government uses any of the funds made available under this heading to increase the number of law enforcement officers, the unit of local government will achieve a net gain in the number of law enforcement officers who perform non-administrative public sector safety service.

JUVENILE JUSTICE PROGRAMS

For grants, contracts, cooperative agreements, and other assistance authorized by the Juvenile Justice and Delinquency Prevention Act of 1974 (''the 1974 Act''); the Omnibus Crime Control and Safe Streets Act of 1968 (''the 1968 Act''); the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Public Law 109–162) (''the 2005 Act''); the Missing Children's Assistance Act (42 U.S.C. 5771 et seq.); the Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act of 2003 (Public Law 108–21); the Victims of Child Abuse Act of 1990 (Public Law 101–647) (''the 1990 Act''); the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109–248) (''the Adam Walsh Act''); the PROTECT Our Children Act of 2008 (Public Law 110–401); and other juvenile justice programs, $251,000,000, to remain available until expended as follows—

(1) $45,000,000 for programs authorized by section 221 of the 1974 Act, and for training and technical assistance to assist small, nonprofit organizations with the Federal grants process;

(2) $55,000,000 for youth mentoring grants;

(3) $33,000,000 for delinquency prevention, as authorized by section 505 of the 1974 Act, of which, pursuant to sections 261 and 262 thereof—

(A) $15,000,000 shall be for the Tribal Youth Program;

(B) $8,000,000 shall be for gang and youth violence education, prevention and intervention, and related activities; and

(C) $10,000,000 shall be for programs and activities to enforce State laws prohibiting the sale of alcoholic beverages to minors or the purchase or consumption of alcoholic beverages by minors, for prevention and reduction of consumption of alcoholic beverages by minors, and for technical assistance and training;

(4) $20,000,000 for programs authorized by the Victims of Child Abuse Act of 1990;

(5) $30,000,000 for the Juvenile Accountability Block Grants program as authorized by part R of title I of the 1968 Act and Guam shall be considered a State;

(6) $8,000,000 for community-based violence prevention initiatives; and

(7) $60,000,000 for missing and exploited children programs, including as authorized by sections 404(b) and 405(a) of the 1974 Act:

Provided, That not more than 10 percent of each amount may be used for research, evaluation, and statistics activities designed to benefit the programs or activities authorized: *Provided further*, That not more than 2 percent of each amount may be used for training and technical assistance: *Provided further*, That the previous two provisos shall not apply to grants and projects authorized by sections 261 and 262 of the 1974 Act.

SALARIES AND EXPENSES

For necessary expenses, not elsewhere specified in this title, for management and administration of programs within the Office of Justice Programs, $118,572,000.

PUBLIC SAFETY OFFICER BENEFITS

For payments and expenses authorized under section 1001(a)(4) of title I of the Omnibus Crime Control and Safe Streets Act of 1968, such sums as are necessary (including amounts for administrative costs, which amounts shall be paid to the ''Salaries and Expenses'' account), to remain available until expended; and $16,300,000 for payments authorized by section 1201(b) of such Act and for educational assistance authorized by section 1218 of such Act, to remain available until expended: *Provided*, That notwithstanding section 205 of this Act, upon a determination by the Attorney General that emergent circumstances require additional funding for such disability and education payments, the Attorney General may transfer such amounts to ''Public Safety Officer Benefits'' from available appropriations for the current fiscal year for the Department of Justice as may be necessary to respond to such circumstances: *Provided further*, That any transfer pursuant to the previous proviso shall be treated as a reprogramming under section 505 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

COMMUNITY ORIENTED POLICING SERVICES

COMMUNITY ORIENTED POLICING SERVICES PROGRAMS

(INCLUDING TRANSFERS OF FUNDS)

For activities authorized by the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322); the Omnibus Crime Control and Safe Streets Act of 1968 (''the 1968 Act''); and the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Public Law 109–162) (''the 2005 Act''), $231,500,000, to remain available until expended: *Provided*, That any balances made available through prior year deobligations shall only be available in accordance with section 505 of this Act. Of the amount provided:

(1) $1,500,000 is for research, testing, and evaluation programs regarding law enforcement technologies and interoperable communications, and related law enforcement and public safety equipment, which shall be transferred directly to the National Institute of Standards and Technology's Office of Law Enforcement Standards from the Community Oriented Policing Services Office;

(2) $10,000,000 is for anti-methamphetamine-related activities, which shall be transferred to the Drug Enforcement Administration upon enactment of this Act;

(3) $20,000,000 is for improving tribal law enforcement, including hiring, equipment, training, and anti-methamphetamine activities; and

(4) $200,000,000 is for grants under section 1701 of title I of the 1968 Act (42 U.S.C. 3796dd) for the hiring and rehiring of additional career law enforcement officers under part Q of such title notwithstanding subsection (i) of such section: *Provided*, That notwithstanding subsection (g) of the 1968 Act (42 U.S.C. 3796dd), the Federal share of the costs of a project funded by such grants may not exceed 75 percent unless the Director of the Office of Community Oriented Policing Services waives, wholly or in part, the requirement of a non-Federal contribution to the costs of a project: *Provided further*, That notwithstanding 42 U.S.C. 3796dd–3(c), funding for hiring or rehiring a career law enforcement officer may not exceed $125,000, unless the Director of the Office of Community Oriented Policing Services grants a waiver from this limitation: *Provided further*, That within the amounts appropriated, $28,000,000 shall be used for the hiring and rehiring of tribal law enforcement officers: *Provided further*, That within the amounts appropriated, $10,000,000 is for community policing development activities.

SALARIES AND EXPENSES

For necessary expenses, not elsewhere specified in this title, for management and administration of programs within the Community Oriented Policing Services Office, $24,500,000.

GENERAL PROVISIONS—DEPARTMENT OF JUSTICE

SEC. 201. In addition to amounts otherwise made available in this title for official reception and representation expenses, a total of not to exceed $50,000 from funds appropriated to the Department of Justice in this title shall be available to the Attorney General for official reception and representation expenses.

SEC. 202. None of the funds appropriated by this title shall be available to pay for an abortion, except where the life of the mother would be endangered if the fetus were carried to term, or in the case of rape: *Provided*, That should this prohibition be declared unconstitutional by a court of competent jurisdiction, this section shall be null and void.

SEC. 203. None of the funds appropriated under this title shall be used to require any person to perform, or facilitate in any way the performance of, any abortion.

SEC. 204. Nothing in the preceding section shall remove the obligation of the Director of the Bureau of Prisons to provide escort services necessary for a female inmate to receive such service outside the Federal facility: *Provided*, That nothing in this section in any way diminishes the effect of section 203 intended to address the philosophical beliefs of individual employees of the Bureau of Prisons.

SEC. 205. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Justice in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers: *Provided*, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 505 of this Act and shall not be available for obligation except in compliance with the procedures set forth in that section.

SEC. 206. The Attorney General is authorized to extend through September 30, 2013, the Personnel Management Demonstration Project transferred to the Attorney General pursuant to section 1115 of the Homeland Security Act of 2002, Public Law 107–296 (28 U.S.C. 599B) without limitation on the number of employees or the positions covered.

SEC. 207. Notwithstanding any other provision of law, Public Law 102–395 section 102(b) shall extend to the Bureau of Alcohol, Tobacco, Firearms and Explosives in the conduct of undercover investigative operations and shall apply without fiscal year limitation with respect to any undercover investigative operation by the Bureau of Alcohol, Tobacco, Firearms and Explosives that is necessary for the detection and prosecution of crimes against the United States.

SEC. 208. None of the funds made available to the Department of Justice in this Act may be used for the purpose of transporting an individual who is a prisoner pursuant to conviction for crime under State or Federal law and is classified as a maximum or high security prisoner, other than to a prison or other facility certified by the Federal Bureau of Prisons as appropriately secure for housing such a prisoner.

SEC. 209. (a) None of the funds appropriated by this Act may be used by Federal prisons

to purchase cable television services, to rent or purchase videocassettes, videocassette recorders, or other audiovisual or electronic equipment used primarily for recreational purposes.

(b) The preceding sentence does not preclude the renting, maintenance, or purchase of audiovisual or electronic equipment for inmate training, religious, or educational programs.

SEC. 210. None of the funds made available under this title shall be obligated or expended for any new or enhanced information technology program having total estimated development costs in excess of $100,000,000, unless the Deputy Attorney General and the investment review board certify to the Committees on Appropriations that the information technology program has appropriate program management and contractor oversight mechanisms in place, and that the program is compatible with the enterprise architecture of the Department of Justice.

SEC. 211. The notification thresholds and procedures set forth in section 505 of this Act shall apply to deviations from the amounts designated for specific activities in this Act and accompanying statement, and to any use of deobligated balances of funds provided under this title in previous years.

SEC. 212. None of the funds appropriated by this Act may be used to plan for, begin, continue, finish, process, or approve a public-private competition under the Office of Management and Budget Circular A–76 or any successor administrative regulation, directive, or policy for work performed by employees of the Bureau of Prisons or of Federal Prison Industries, Incorporated.

SEC. 213. Notwithstanding any other provision of law, no funds shall be available for the salary, benefits, or expenses of any United States Attorney assigned dual or additional responsibilities by the Attorney General or his designee that exempt that United States Attorney from the residency requirements of 28 U.S.C. 545.

SEC. 214. At the discretion of the Attorney General, and in addition to any amounts that otherwise may be available (or authorized to be made available) by law, with respect to funds appropriated by this Act under the headings for ''Research Evaluation and Statistics'', ''State and Local Law Enforcement Assistance'', and ''Juvenile Justice Programs''—

(1) Up to 3 percent of funds made available for grant or reimbursement programs may be used to provide training and technical assistance;

(2) Up to 3 percent of funds made available for grant or reimbursement programs under such headings, except for amounts appropriated specifically for research, evaluation, or statistical programs administered by the National Institute of Justice and the Bureau of Justice Statistics, shall be transferred to and merged with funds provided to the National Institute of Justice and the Bureau of Justice Statistics, to be used by them for research, evaluation or statistical purposes, without regard to the authorizations for such grant or reimbursement programs, and of such amounts, $1,300,000 shall be transferred to the Bureau of Prisons for Federal inmate research and evaluation purposes; and

(3) 7 percent of funds made available for grant or reimbursement programs:

(A) under the heading ''State and Local Law Enforcement Assistance''; or

(B) under the headings ''Research, Evaluation and Statistics'' and ''Juvenile Justice Programs'', to be transferred to and merged with funds made available under the heading ''State and Local Law Enforcement Assistance'', shall be available for tribal criminal justice assistance without regard to the authorizations for such grant or reimbursement programs.

SEC. 215. Notwithstanding any other provision of law, section 20109(a), in subtitle A of title II of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13709(a)), shall not apply to amounts made available by this title.

SEC. 216. Section 530A of title 28, United States Code, is hereby amended by replacing ''appropriated'' with ''used from appropriations'', and by inserting ''(2),'' before ''(3)''.

SEC. 217. (a) Within 30 days of enactment of this Act, the Attorney General shall report to the Committees on Appropriations of the House of Representatives and the Senate a cost and schedule estimate for the final operating capability of the Federal Bureau of Investigation's Sentinel program, including the costs of Bureau employees engaged in development work, the costs of operating and maintaining Sentinel for 2 years after achievement of the final operating capability, and a detailed list of the functionalities included in the final operating capability compared to the functionalities included in the previous program baseline.

(b) The report described in subsection (a) shall be submitted concurrently to the Department of Justice Office of Inspector General (OIG) and, within 60 days of receiving such report, the OIG shall provide an assessment of such report to the Committees on Appropriations of the House of Representatives and the Senate.

This title may be cited as the ''Department of Justice Appropriations Act, 2012''.

TITLE III

SCIENCE

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

For necessary expenses of the Office of Science and Technology Policy, in carrying out the purposes of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601–6671), hire of passenger motor vehicles, and services as authorized by 5 U.S.C. 3109, not to exceed $2,100 for official reception and representation expenses, and rental of conference rooms in the District of Columbia, $6,000,000.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

SCIENCE

For necessary expenses, not otherwise provided for, in the conduct and support of science research and development activities, including research, development, operations, support, and services; maintenance and repair, facility planning and design; space flight, spacecraft control, and communications activities; program management; personnel and related costs, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; travel expenses; purchase and hire of passenger motor vehicles; and purchase, lease, charter, maintenance, and operation of mission and administrative aircraft, $5,100,000,000, to remain available until September 30, 2013, of which up to $10,000,000 shall be available for a reimbursable agreement with the Department of Energy for the purpose of re-establishing facilities to produce fuel required for radio-isotope thermoelectric generators to enable future missions: *Provided*, That the development cost (as defined under 51 U.S.C. 30104) for the James Webb Space Telescope shall not exceed $8,000,000,000: *Provided further*, That should the individual identified under subparagraph (c)(2)(E) of section 30104 of title 51 as responsible for the James Webb Space Telescope determine that the development cost of the program is likely to exceed that limitation, the individual shall immediately notify the Administrator and the increase shall be treated as if it meets the 30 percent threshold described in subsection (f) of section 30104 of title 51.

AERONAUTICS

For necessary expenses, not otherwise provided for, in the conduct and support of aeronautics research and development activities, including research, development, operations, support, and services; maintenance and repair, facility planning and design; space flight, spacecraft control, and communications activities; program management; personnel and related costs, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; travel expenses; purchase and hire of passenger motor vehicles; and purchase, lease, charter, maintenance, and operation of mission and administrative aircraft, $501,000,000, to remain available until September 30, 2013.

SPACE TECHNOLOGY

For necessary expenses, not otherwise provided for, in the conduct and support of space research and technology development activities, including research, development, operations, support, and services; maintenance and repair, facility planning and design; space flight, spacecraft control, and communications activities; program management; personnel and related costs, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; travel expenses; purchase and hire of passenger motor vehicles; and purchase, lease, charter, maintenance, and operation of mission and administrative aircraft, $637,000,000, to remain available until September 30, 2013.

EXPLORATION

For necessary expenses, not otherwise provided for, in the conduct and support of exploration research and development activities, including research, development, operations, support, and services; maintenance and repair, facility planning and design; space flight, spacecraft control, and communications activities; program management, personnel and related costs, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; travel expenses; purchase and hire of passenger motor vehicles; and purchase, lease, charter, maintenance, and operation of mission and administrative aircraft, $3,775,000,000, to remain available until September 30, 2013: *Provided*, That not less than $1,200,000,000 shall be for the Orion multipurpose crew vehicle, not less than $1,800,000,000 shall be for the heavy lift launch vehicle system which shall have a lift capacity not less than 130 tons and which shall have an upper stage and other core elements developed simultaneously, $500,000,000 shall be for commercial spaceflight activities, and $275,000,000 shall be for exploration research and development: *Provided further*, That $192,600,000 of the funds provided for commercial spaceflight activities shall only be available after the NASA Administrator certifies to the Committees on Appropriations, in writing, that NASA has published the required notifications of NASA contract actions implementing the acquisition strategy for the heavy lift launch vehicle system identified in section 302 of Public Law 111–267 and has begun to execute relevant contract actions in support of development of the heavy lift launch vehicle system: *Provided further*, That funds made available under this heading within this Act may be transferred to ''Construction and Environmental Compliance and Restoration'' for construction activities related to the Orion multipurpose crew vehicle and the heavy lift launch vehicle system: *Provided further*, That funds so transferred shall be subject to the 5 percent but shall not be subject to the 10 percent transfer limitation described under the Administrative Provisions in this Act for the

National Aeronautics and Space Administration, shall be available until September 30, 2017, and shall be treated as a reprogramming under section 505 of this Act.

SPACE OPERATIONS

For necessary expenses, not otherwise provided for, in the conduct and support of space operations research and development activities, including research, development, operations, support and services; space flight, spacecraft control and communications activities including operations, production, and services; maintenance and repair, facility planning and design; program management; personnel and related costs, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; travel expenses; purchase and hire of passenger motor vehicles; and purchase, lease, charter, maintenance and operation of mission and administrative aircraft, $4,285,000,000, to remain available until September 30, 2013: *Provided*, That of the amounts provided under this heading, not more than $650,900,000 shall be for Space Shuttle operations, production, research, development, and support, not more than $2,803,500,000 shall be for International Space Station operations, production, research, development, and support, not more than $168,000,000 shall be for the 21st Century Launch Complex, and not more than $662,600,000 shall be for Space and Flight Support: *Provided further*, That funds made available under this heading for 21st Century Launch Complex may be transferred to ''Construction and Environmental Compliance and Restoration'' for construction activities only at NASA-owned facilities: *Provided further*, That funds so transferred shall not be subject to the transfer limitations described in the Administrative Provisions in this Act for the National Aeronautics and Space Administration, shall be available until September 30, 2017, and shall be treated as a reprogramming under section 505 of this Act.

EDUCATION

For necessary expenses, not otherwise provided for, in carrying out aerospace and aeronautical education research and development activities, including research, development, operations, support, and services; program management; personnel and related costs, uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; travel expenses; purchase and hire of passenger motor vehicles; and purchase, lease, charter, maintenance, and operation of mission and administrative aircraft, $138,400,000, to remain available until September 30, 2013.

CROSS AGENCY SUPPORT

For necessary expenses, not otherwise provided for, in the conduct and support of science, aeronautics, exploration, space operations and education research and development activities, including research, development, operations, support, and services; maintenance and repair, facility planning and design; space flight, spacecraft control, and communications activities; program management; personnel and related costs, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; travel expenses; purchase and hire of passenger motor vehicles; not to exceed $52,500 for official reception and representation expenses; and purchase, lease, charter, maintenance, and operation of mission and administrative aircraft, $3,043,073,000: *Provided*, That not less than $39,100,000 shall be available for independent verification and validation activities: *Provided further*, That contracts may be entered into under this heading in fiscal year 2012 for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year.

CONSTRUCTION AND ENVIRONMENTAL COMPLIANCE AND RESTORATION

For necessary expenses for construction of facilities including repair, rehabilitation, revitalization, and modification of facilities, construction of new facilities and additions to existing facilities, facility planning and design, and restoration, and acquisition or condemnation of real property, as authorized by law, and environmental compliance and restoration, $422,000,000, to remain available until September 30, 2017: *Provided*, That hereafter, notwithstanding section 315 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2459j), all proceeds from leases entered into under that section shall be deposited into this account and shall be available for a period of 5 years, to the extent provided in annual appropriations Acts: *Provided further*, That such proceeds shall be available for obligation for fiscal year 2012 in an amount not to exceed $3,960,000: *Provided further*, That each annual budget request shall include an annual estimate of gross receipts and collections and proposed use of all funds collected pursuant to section 315 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2459j).

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the Inspector General Act of 1978, $37,300,000.

ADMINISTRATIVE PROVISIONS

Funds for announced prizes otherwise authorized shall remain available, without fiscal year limitation, until the prize is claimed or the offer is withdrawn.

Not to exceed 5 percent of any appropriation made available for the current fiscal year for the National Aeronautics and Space Administration in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers. Balances so transferred shall be merged with and available for the same purposes and the same time period as the appropriations to which transferred. Any transfer pursuant to this provision shall be treated as a reprogramming of funds under section 505 of this Act and shall not be available for obligation except in compliance with the procedures set forth in that section.

The unexpired balances of previous accounts, for activities for which funds are provided under this Act, may be transferred to the new accounts established in this Act that provide such activity. Balances so transferred shall be merged with the funds in the newly established accounts, but shall be available under the same terms, conditions and period of time as previously appropriated.

Section 40902 of title 51, United States Code, is amended by adding at the end the following:

''(d) AVAILABILITY OF FUNDS.—The interest accruing from the National Aeronautics and Space Administration Endeavor Teacher Fellowship Trust Fund principal shall be available in fiscal year 2012 for the purpose of the Endeavor Science Teacher Certificate Program.''.

Section 20145(b)(1) of title 51 is amended by inserting ''(A)'' before ''A person'' and adding at the end thereof the following new subparagraph (B) as follows:

''(B) Notwithstanding subparagraph (A), the Administrator may accept in-kind consideration for leases entered into for the purpose of developing renewable energy production facilities.''.

The spending plan required by section 540 of this Act shall be provided by NASA at the theme, program, project and activity level. The spending plan, as well as any subsequent change of an amount established in that spending plan that meets the notification requirements of section 505 of this Act, shall be treated as a reprogramming under section 505 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

For necessary expenses in carrying out the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), and the Act to establish a National Medal of Science (42 U.S.C. 1880–1881); services as authorized by 5 U.S.C. 3109; maintenance and operation of aircraft and purchase of flight services for research support; acquisition of aircraft; and authorized travel; $5,443,000,000, to remain available until September 30, 2013, of which not to exceed $550,000,000 shall remain available until expended for polar research and operations support, and for reimbursement to other Federal agencies for operational and science support and logistical and other related activities for the United States Antarctic program: *Provided*, That receipts for scientific support services and materials furnished by the National Research Centers and other National Science Foundation supported research facilities may be credited to this appropriation: *Provided further*, That not less than $146,830,000 shall be available for activities authorized by section 7002(c)(2)(A)(iv) of Public Law 110–69: *Provided further*, That up to $100,000,000 of funds made available under this heading within this Act may be transferred to ''Major Research Equipment and Facilities Construction'': *Provided further*, That funds so transferred shall not be subject to the transfer limitations described in the Administrative Provisions in this Act for the National Science Foundation, and shall be available until expended only after notification of such transfer to the Committees on Appropriations.

MAJOR RESEARCH EQUIPMENT AND FACILITIES CONSTRUCTION

For necessary expenses for the acquisition, construction, commissioning, and upgrading of major research equipment, facilities, and other such capital assets pursuant to the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), including authorized travel, $117,055,000, to remain available until expended: *Provided*, That none of the funds may be used to reimburse the Judgment Fund.

EDUCATION AND HUMAN RESOURCES

For necessary expenses in carrying out science, mathematics and engineering education and human resources programs and activities pursuant to the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), including services as authorized by 5 U.S.C. 3109, authorized travel, and rental of conference rooms in the District of Columbia, $829,000,000, to remain available until September 30, 2013: *Provided*, That not less than $54,890,000 shall be available until expended for activities authorized by section 7030 of Public Law 110–69.

AGENCY OPERATIONS AND AWARD MANAGEMENT

For agency operations and award management necessary in carrying out the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875); services authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; not to exceed $6,900 for official reception and representation expenses; uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; rental of conference rooms in the District of Columbia; and reimbursement of

the Department of Homeland Security for security guard services; $290,400,000: *Provided*, That contracts may be entered into under this heading in fiscal year 2012 for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year.

OFFICE OF THE NATIONAL SCIENCE BOARD

For necessary expenses (including payment of salaries, authorized travel, hire of passenger motor vehicles, the rental of conference rooms in the District of Columbia, and the employment of experts and consultants under section 3109 of title 5, United States Code) involved in carrying out section 4 of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1863) and Public Law 86–209 (42 U.S.C. 1880 et seq.), $4,440,000: *Provided*, That not to exceed $2,100 shall be available for official reception and representation expenses.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General as authorized by the Inspector General Act of 1978, as amended, $14,200,000.

ADMINISTRATIVE PROVISION

Not to exceed 5 percent of any appropriation made available for the current fiscal year for the National Science Foundation in this Act may be transferred between such appropriations, but no such appropriation shall be increased by more than 10 percent by any such transfers. Any transfer pursuant to this section shall be treated as a reprogramming of funds under section 505 of this Act and shall not be available for obligation except in compliance with the procedures set forth in that section.

This title may be cited as the ''Science Appropriations Act, 2012''.

TITLE IV

RELATED AGENCIES

COMMISSION ON CIVIL RIGHTS

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Commission on Civil Rights, including hire of passenger motor vehicles, $9,193,000: *Provided*, That none of the funds appropriated in this paragraph shall be used to employ in excess of four full-time individuals under Schedule C of the Excepted Service exclusive of one special assistant for each Commissioner: *Provided further*, That none of the funds appropriated in this paragraph shall be used to reimburse Commissioners for more than 75 billable days, with the exception of the chairperson, who is permitted 125 billable days: *Provided further*, That none of the funds appropriated in this paragraph shall be used for any activity or expense that is not explicitly authorized by 42 U.S.C. 1975a: *Provided further*, That there shall be an Inspector General at the Commission on Civil Rights who shall have the duties, responsibilities, and authorities specified in the Inspector General Act of 1978, as amended: *Provided further*, That an individual appointed to the position of Inspector General of the Equal Employment Opportunity Commission (EEOC) shall, by virtue of such appointment, also hold the position of Inspector General of the Commission on Civil Rights: *Provided further*, That the Inspector General of the Commission on Civil Rights shall utilize personnel of the Office of Inspector General of EEOC in performing the duties of the Inspector General of the Commission on Civil Rights, and shall not appoint any individuals to positions within the Commission on Civil Rights: *Provided further*, That of the amounts made available in this paragraph, $800,000 shall be transferred directly to the Office of Inspector General of EEOC upon enactment of this Act for salaries and expenses necessary to carry out the duties of the Inspector General of the Commission on Civil Rights.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Equal Employment Opportunity Commission as authorized by title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Equal Pay Act of 1963, the Americans with Disabilities Act of 1990, the Civil Rights Act of 1991, the Genetic Information Non-Discrimination Act (GINA) of 2008 (Public Law 110–233), the ADA Amendments Act of 2008 (Public Law 110–325), and the Lilly Ledbetter Fair Pay Act of 2009 (Public Law 111–2), including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles as authorized by 31 U.S.C. 1343(b); and nonmonetary awards to private citizens, $329,837,000: *Provided*, That the Commission is authorized to make available for official reception and representation expenses not to exceed $1,875 from available funds: *Provided further*, That the Commission may take no action to implement any workforce repositioning, restructuring, or reorganization until such time as the Committees on Appropriations have been notified of such proposals, in accordance with the reprogramming requirements of section 505 of this Act: *Provided further*, That the Chair is authorized to accept and use any gift or donation to carry out the work of the Commission.

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For payments to State and local enforcement agencies for authorized services to the Commission, $29,400,000.

INTERNATIONAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the International Trade Commission, including hire of passenger motor vehicles, and services as authorized by 5 U.S.C. 3109, and not to exceed $1,875 for official reception and representation expenses, $80,062,000, to remain available until expended.

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, $396,106,000, of which $370,506,000 is for basic field programs and required independent audits; $4,200,000 is for the Office of Inspector General, of which such amounts as may be necessary may be used to conduct additional audits of recipients; $17,000,000 is for management and grants oversight; $3,400,000 is for client self-help and information technology; and $1,000,000 is for loan repayment assistance: *Provided*, That the Legal Services Corporation may continue to provide locality pay to officers and employees at a rate no greater than that provided by the Federal Government to Washington, DC-based employees as authorized by 5 U.S.C. 5304, notwithstanding section 1005(d) of the Legal Services Corporation Act, 42 U.S.C. 2996(d): *Provided further*, That the authorities provided in section 205 of this Act shall be applicable to the Legal Services Corporation.

ADMINISTRATIVE PROVISION—LEGAL SERVICES CORPORATION

None of the funds appropriated in this Act to the Legal Services Corporation shall be expended for any purpose prohibited or limited by, or contrary to any of the provisions of, sections 501, 502, 503, 504, 505, and 506 of Public Law 105–119, and all funds appropriated in this Act to the Legal Services Corporation shall be subject to the same terms and conditions set forth in such sections, except that all references in sections 502 and 503 to 1997 and 1998 shall be deemed to refer instead to 2011 and 2012, respectively.

Section 504 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1996 (as contained in Public Law 104–134) is amended:

(1) in subsection (a), in the matter preceding paragraph (1), by inserting after ''(''' the following: ''that uses Federal funds (or funds from any source with regard to paragraphs (14) and (15) in a manner'';

(2) by striking subsection (d); and

(3) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

MARINE MAMMAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Marine Mammal Commission as authorized by title II of Public Law 92–522, $3,025,000.

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

SALARIES AND EXPENSES

For necessary expenses of the Office of the United States Trade Representative, including the hire of passenger motor vehicles and the employment of experts and consultants as authorized by 5 U.S.C. 3109, $46,775,000, of which $1,000,000 shall remain available until expended: *Provided*, That not to exceed $93,000 shall be available for official reception and representation expenses.

STATE JUSTICE INSTITUTE

SALARIES AND EXPENSES

For necessary expenses of the State Justice Institute, as authorized by the State Justice Institute Authorization Act of 1984 (42 U.S.C. 10701 et seq.) $5,019,000, of which $500,000 shall remain available until September 30, 2013: *Provided*, That not to exceed $1,875 shall be available for official reception and representation expenses.

COMMISSION ON WARTIME RELOCATION AND INTERNMENT OF LATIN AMERICANS OF JAPANESE DESCENT

SALARIES AND EXPENSES

For necessary expenses to carry out the activities of the Commission on Wartime Relocation and Internment of Latin Americans of Japanese Descent, as authorized by section 541 of this Act, $1,700,000 shall be available until expended.

TITLE V

GENERAL PROVISIONS

SEC. 501. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 502. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 503. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 504. If any provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of each provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

SEC. 505. (a) None of the funds provided under this Act, or provided under previous

appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 2012, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through the reprogramming of funds that—

(1) creates or initiates a new program, project or activity, unless the House and Senate Committees on Appropriations are notified 15 days in advance of such reprogramming of funds;

(2) eliminates a program, project or activity, unless the House and Senate Committees on Appropriations are notified 15 days in advance of such reprogramming of funds;

(3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted by this Act, unless the House and Senate Committees on Appropriations are notified 15 days in advance of such reprogramming of funds;

(4) relocates an office or employees, unless the House and Senate Committees on Appropriations are notified 15 days in advance of such reprogramming of funds;

(5) reorganizes or renames offices, programs or activities, unless the House and Senate Committees on Appropriations are notified 15 days in advance of such reprogramming of funds;

(6) contracts out or privatizes any functions or activities presently performed by Federal employees, unless the House and Senate Committees on Appropriations are notified 15 days in advance of such reprogramming of funds;

(7) proposes to use funds directed for a specific activity by either the House or Senate Committee on Appropriations for a different purpose, unless the House and Senate Committees on Appropriations are notified 15 days in advance of such reprogramming of funds;

(8) augments funds for existing programs, projects or activities in excess of $500,000 or 10 percent, whichever is less, or reduces by 10 percent funding for any program, project or activity, or numbers of personnel by 10 percent as approved by Congress, unless the House and Senate Committees on Appropriations are notified 15 days in advance of such reprogramming of funds; or

(9) results from any general savings, including savings from a reduction in personnel, which would result in a change in existing programs, projects or activities as approved by Congress, unless the House and Senate Committees on Appropriations are notified 15 days in advance of such reprogramming of funds.

(b) None of the funds in provided under this Act, or provided under previous appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 2012, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through the reprogramming of funds after August 1, except in extraordinary circumstances, and only after the House and Senate Committees on Appropriations are notified 30 days in advance of such reprogramming of funds.

SEC. 506. Hereafter, none of the funds made available in this or any other Act may be used to implement, administer, or enforce any guidelines of the Equal Employment Opportunity Commission covering harassment based on religion, when it is made known to the Federal entity or official to which such funds are made available that such guidelines do not differ in any respect from the proposed guidelines published by the Commission on October 1, 1993 (58 Fed. Reg. 51266).

SEC. 507. If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a ''Made in America'' inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 508. The Departments of Commerce and Justice, the National Science Foundation, and the National Aeronautics and Space Administration, shall provide to the House and Senate Committees on Appropriations a quarterly accounting of the cumulative balances of any unobligated funds that were received by such agency during any previous fiscal year.

SEC. 509. Any costs incurred by a department or agency funded under this Act resulting from, or to prevent, personnel actions taken in response to funding reductions included in this Act shall be absorbed within the total budgetary resources available to such department or agency: *Provided*, That the authority to transfer funds between appropriations accounts as may be necessary to carry out this section is provided in addition to authorities included elsewhere in this Act: *Provided further*, That use of funds to carry out this section shall be treated as a reprogramming of funds under section 505 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 510. None of the funds provided by this Act shall be available to promote the sale or export of tobacco or tobacco products, or to seek the reduction or removal by any foreign country of restrictions on the marketing of tobacco or tobacco products, except for restrictions which are not applied equally to all tobacco or tobacco products of the same type.

SEC. 511. None of the funds appropriated pursuant to this Act or any other provision of law may be used for—

(1) the implementation of any tax or fee in connection with the implementation of subsection 922(t) of title 18, United States Code; and

(2) any system to implement subsection 922(t) of title 18, United States Code, that does not require and result in the destruction of any identifying information submitted by or on behalf of any person who has been determined not to be prohibited from possessing or receiving a firearm no more than 24 hours after the system advises a Federal firearms licensee that possession or receipt of a firearm by the prospective transferee would not violate subsection (g) or (n) of section 922 of title 18, United States Code, or State law.

SEC. 512. Notwithstanding any other provision of law, amounts deposited or available in the Fund established under 42 U.S.C. 10601 in any fiscal year in excess of $705,000,000 shall not be available for obligation until the following fiscal year.

SEC. 513. None of the funds made available to the Department of Justice in this Act may be used to discriminate against or denigrate the religious or moral beliefs of students who participate in programs for which financial assistance is provided from those funds, or of the parents or legal guardians of such students.

SEC. 514. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriations Act.

SEC. 515. Any funds provided in this Act used to implement E-Government Initiatives shall be subject to the procedures set forth in section 505 of this Act.

SEC. 516. (a) Tracing studies conducted by the Bureau of Alcohol, Tobacco, Firearms and Explosives are released without adequate disclaimers regarding the limitations of the data.

(b) The Bureau of Alcohol, Tobacco, Firearms and Explosives shall include in all such data releases, language similar to the following that would make clear that trace data cannot be used to draw broad conclusions about firearms-related crime:

(1) Firearm traces are designed to assist law enforcement authorities in conducting investigations by tracking the sale and possession of specific firearms. Law enforcement agencies may request firearms traces for any reason, and those reasons are not necessarily reported to the Federal Government. Not all firearms used in crime are traced and not all firearms traced are used in crime.

(2) Firearms selected for tracing are not chosen for purposes of determining which types, makes, or models of firearms are used for illicit purposes. The firearms selected do not constitute a random sample and should not be considered representative of the larger universe of all firearms used by criminals, or any subset of that universe. Firearms are normally traced to the first retail seller, and sources reported for firearms traced do not necessarily represent the sources or methods by which firearms in general are acquired for use in crime.

SEC. 517. (a) The Inspectors General of the Department of Commerce, the Department of Justice, the National Aeronautics and Space Administration, the National Science Foundation, and the Legal Services Corporation shall conduct audits, pursuant to the Inspector General Act (5 U.S.C. App.), of grants or contracts for which funds are appropriated by this Act, and shall submit reports to Congress on the progress of such audits, which may include preliminary findings and a description of areas of particular interest, within 180 days after initiating such an audit and every 180 days thereafter until any such audit is completed.

(b) Within 60 days after the date on which an audit described in subsection (a) by an Inspector General is completed, the Secretary, Attorney General, Administrator, Director, or President, as appropriate, shall make the results of the audit available to the public on the Internet website maintained by the Department, Administration, Foundation, or Corporation, respectively. The results shall be made available in redacted form to exclude—

(1) any matter described in section 552(b) of title 5, United States Code; and

(2) sensitive personal information for any individual, the public access to which could be used to commit identity theft or for other inappropriate or unlawful purposes.

(c) A grant or contract funded by amounts appropriated by this Act may not be used for the purpose of defraying the costs of a banquet or conference that is not directly and programmatically related to the purpose for which the grant or contract was awarded, such as a banquet or conference held in connection with planning, training, assessment, review, or other routine purposes related to a project funded by the grant or contract.

(d) Any person awarded a grant or contract funded by amounts appropriated by this Act shall submit a statement to the Secretary of Commerce, the Attorney General, the Administrator, Director, or President, as appropriate, certifying that no funds derived from

the grant or contract will be made available through a subcontract or in any other manner to another person who has a financial interest in the person awarded the grant or contract.

(e) The provisions of the preceding subsections of this section shall take effect 30 days after the date on which the Director of the Office of Management and Budget, in consultation with the Director of the Office of Government Ethics, determines that a uniform set of rules and requirements, substantially similar to the requirements in such subsections, consistently apply under the executive branch ethics program to all Federal departments, agencies, and entities.

SEC. 518. None of the funds appropriated or otherwise made available under this Act may be used to issue patents on claims directed to or encompassing a human organism.

SEC. 519. None of the funds made available in this Act shall be used in any way whatsoever to support or justify the use of torture by any official or contract employee of the United States Government.

SEC. 520. (a) Notwithstanding any other provision of law or treaty, none of the funds appropriated or otherwise made available under this Act or any other Act may be expended or obligated by a department, agency, or instrumentality of the United States to pay administrative expenses or to compensate an officer or employee of the United States in connection with requiring an export license for the export to Canada of components, parts, accessories or attachments for firearms listed in Category I, section 121.1 of title 22, Code of Federal Regulations (International Trafficking in Arms Regulations (ITAR), part 121, as it existed on April 1, 2005) with a total value not exceeding $500 wholesale in any transaction, provided that the conditions of subsection (b) of this section are met by the exporting party for such articles.

(b) The foregoing exemption from obtaining an export license—

(1) does not exempt an exporter from filing any Shipper's Export Declaration or notification letter required by law, or from being otherwise eligible under the laws of the United States to possess, ship, transport, or export the articles enumerated in subsection (a); and

(2) does not permit the export without a license of—

(A) fully automatic firearms and components and parts for such firearms, other than for end use by the Federal Government, or a Provincial or Municipal Government of Canada;

(B) barrels, cylinders, receivers (frames) or complete breech mechanisms for any firearm listed in Category I, other than for end use by the Federal Government, or a Provincial or Municipal Government of Canada; or

(C) articles for export from Canada to another foreign destination.

(c) In accordance with this section, the District Directors of Customs and postmasters shall permit the permanent or temporary export without a license of any unclassified articles specified in subsection (a) to Canada for end use in Canada or return to the United States, or temporary import of Canadian-origin items from Canada for end use in the United States or return to Canada for a Canadian citizen.

(d) The President may require export licenses under this section on a temporary basis if the President determines, upon publication first in the Federal Register, that the Government of Canada has implemented or maintained inadequate import controls for the articles specified in subsection (a), such that a significant diversion of such articles has and continues to take place for use in international terrorism or in the escalation of a conflict in another nation. The President shall terminate the requirements of a license when reasons for the temporary requirements have ceased.

SEC. 521. Notwithstanding any other provision of law, no department, agency, or instrumentality of the United States receiving appropriated funds under this Act or any other Act shall obligate or expend in any way such funds to pay administrative expenses or the compensation of any officer or employee of the United States to deny any application submitted pursuant to 22 U.S.C. 2778(b)(1)(B) and qualified pursuant to 27 CFR section 478.112 or .113, for a permit to import United States origin ''curios or relics'' firearms, parts, or ammunition.

SEC. 522. None of the funds made available in this Act may be used to include in any new bilateral or multilateral trade agreement the text of—

(1) paragraph 2 of article 16.7 of the United States-Singapore Free Trade Agreement;

(2) paragraph 4 of article 17.9 of the United States-Australia Free Trade Agreement; or

(3) paragraph 4 of article 15.9 of the United States-Morocco Free Trade Agreement.

SEC. 523. None of the funds made available in this Act may be used to authorize or issue a national security letter in contravention of any of the following laws authorizing the Federal Bureau of Investigation to issue national security letters: The Right to Financial Privacy Act; The Electronic Communications Privacy Act; The Fair Credit Reporting Act; The National Security Act of 1947; USA PATRIOT Act; and the laws amended by these Acts.

SEC. 524. If at any time during any quarter, the program manager of a project within the jurisdiction of the Departments of Commerce or Justice, the National Aeronautics and Space Administration, or the National Science Foundation totaling more than $75,000,000 has reasonable cause to believe that the total program cost has increased by 10 percent, the program manager shall immediately inform the Secretary, Administrator, or Director. The Secretary, Administrator, or Director shall notify the House and Senate Committees on Appropriations within 30 days in writing of such increase, and shall include in such notice: the date on which such determination was made; a statement of the reasons for such increases; the action taken and proposed to be taken to control future cost growth of the project; changes made in the performance or schedule milestones and the degree to which such changes have contributed to the increase in total program costs or procurement costs; new estimates of the total project or procurement costs; and a statement validating that the project's management structure is adequate to control total project or procurement costs.

SEC. 525. Funds appropriated by this Act, or made available by the transfer of funds in this Act, for intelligence or intelligence related activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2012 until the enactment of the Intelligence Authorization Act for fiscal year 2012.

SEC. 526. The Departments, agencies, and commissions funded under this Act, shall establish and maintain on the homepages of their Internet websites—

(1) a direct link to the Internet websites of their Offices of Inspectors General; and

(2) a mechanism on the Offices of Inspectors General website by which individuals may anonymously report cases of waste, fraud, or abuse with respect to those Departments, agencies, and commissions.

SEC. 527. None of the funds appropriated or otherwise made available by this Act may be used to enter into a contract in an amount greater than $5,000,000 or to award a grant in excess of such amount unless the prospective contractor or grantee certifies in writing to the agency awarding the contract or grant that, to the best of its knowledge and belief, the contractor or grantee has filed all Federal tax returns required during the three years preceding the certification, has not been convicted of a criminal offense under the Internal Revenue Code of 1986, and has not, more than 90 days prior to certification, been notified of any unpaid Federal tax assessment for which the liability remains unsatisfied, unless the assessment is the subject of an installment agreement or offer in compromise that has been approved by the Internal Revenue Service and is not in default, or the assessment is the subject of a non-frivolous administrative or judicial proceeding.

SEC. 528. None of the funds appropriated or otherwise made available in this Act may be used in a manner that is inconsistent with the principal negotiating objective of the United States with respect to trade remedy laws to preserve the ability of the United States—

(1) to enforce vigorously its trade laws, including antidumping, countervailing duty, and safeguard laws;

(2) to avoid agreements that—

(A) lessen the effectiveness of domestic and international disciplines on unfair trade, especially dumping and subsidies; or

(B) lessen the effectiveness of domestic and international safeguard provisions, in order to ensure that United States workers, agricultural producers, and firms can compete fully on fair terms and enjoy the benefits of reciprocal trade concessions; and

(3) to address and remedy market distortions that lead to dumping and subsidization, including overcapacity, cartelization, and market-access barriers.

(RESCISSIONS)

SEC. 529. (a) Of the unobligated balances available to the Department of Commerce, the following funds are hereby rescinded, not later than September 30, 2012, from the following account in the specified amount:

(1) ''National Telecommunications and Information Administration, Information Infrastructure Grants'', $2,000,000; and

(2) ''National Oceanic and Atmospheric Administration, Foreign Fishing Observer Fund'', $350,000.

(b) Of the amounts made available under section 3010 of the Deficit Reduction Act of 2005 (47 U.S.C. 309 note), $4,300,000 in unobligated balances are hereby rescinded.

(c) Of the unobligated balances available to the Department of Justice from prior appropriations, the following funds are hereby rescinded, not later than September 30, 2012, from the following accounts in the specified amounts—

(1) ''Working Capital Fund'', $40,000,000;

(2) ''Legal Activities, Assets Forfeiture Fund'', $620,000,000;

(3) ''United States Marshals Service, Salaries and Expenses'', $7,200,000;

(4) ''Drug Enforcement Administration, Salaries and Expenses'', $30,000,000;

(5) ''Federal Prison System, Buildings and Facilities'', $35,000,000;

(6) ''Office of Justice Programs'', $42,600,000;

(7) ''Community Oriented Policing Services'', $10,200,000; and

(8) ''Office on Violence Against Women'', $5,000,000.

(d) Within 30 days of enactment of this Act, the Department of Justice shall submit to the Committees on Appropriations of the House of Representatives and the Senate a report specifying the amount of each rescission made pursuant to this section.

(e) The rescissions contained in this section shall not apply to funds provided in this Act.

SEC. 530. None of the funds made available in this Act may be used to purchase first class or premium airline travel in contravention of sections 301–10.122 through 301–10.124 of title 41 of the Code of Federal Regulations.

SEC. 531. None of the funds made available in this Act may be used to send or otherwise pay for the attendance of more than 50 employees from a Federal department or agency at any single conference occurring outside the United States.

SEC. 532. None of the funds appropriated or otherwise made available in this or any other Act may be used to transfer, release, or assist in the transfer or release to or within the United States, its territories, or possessions Khalid Sheikh Mohammed or any other detainee who—

(1) is not a United States citizen or a member of the Armed Forces of the United States; and

(2) is or was held on or after June 24, 2009, at the United States Naval Station, Guantanamo Bay, Cuba, by the Department of Defense.

SEC. 533. (a) None of the funds appropriated or otherwise made available in this or any other Act may be used to construct, acquire, or modify any facility in the United States, its territories, or possessions to house any individual described in subsection (c) for the purposes of detention or imprisonment in the custody or under the effective control of the Department of Defense.

(b) The prohibition in subsection (a) shall not apply to any modification of facilities at United States Naval Station, Guantanamo Bay, Cuba.

(c) An individual described in this subsection is any individual who, as of June 24, 2009, is located at United States Naval Station, Guantanamo Bay, Cuba, and who—

(1) is not a citizen of the United States or a member of the Armed Forces of the United States; and

(2) is—

(A) in the custody or under the effective control of the Department of Defense; or

(B) otherwise under detention at United States Naval Station, Guantanamo Bay, Cuba.

SEC. 534. None of the funds made available under this Act may be distributed to the Association of Community Organizations for Reform Now (ACORN) or its subsidiaries.

SEC. 535. To the extent practicable, funds made available in this Act should be used to purchase light bulbs that are ''Energy Star'' qualified or have the ''Federal Energy Management Program'' designation.

SEC. 536. The Director of the Office of Management and Budget shall instruct any department, agency, or instrumentality of the United States Government receiving funds appropriated under this Act to track undisbursed balances in expired grant accounts and include in its annual performance plan and performance and accountability reports the following:

(1) Details on future action the department, agency, or instrumentality will take to resolve undisbursed balances in expired grant accounts.

(2) The method that the department, agency, or instrumentality uses to track undisbursed balances in expired grant accounts.

(3) Identification of undisbursed balances in expired grant accounts that may be returned to the Treasury of the United States.

(4) In the preceding 3 fiscal years, details on the total number of expired grant accounts with undisbursed balances (on the first day of each fiscal year) for the department, agency, or instrumentality and the total finances that have not been obligated to a specific project remaining in the accounts.

SEC. 537. None of the funds made available in this Act may be used to relocate the Bureau of the Census or employees from the Department of Commerce to the jurisdiction of the Executive Office of the President.

SEC. 538. (a) The head of any department, agency, board or commission funded by this Act shall submit quarterly reports to the Inspector General, or the senior ethics official for any entity without an inspector general, of the appropriate department, agency, board or commission regarding the costs and contracting procedures relating to each conference held by the department, agency, board or commission during fiscal year 2012 for which the cost to the Government was more than $20,000.

(b) Each report submitted under subsection (a) shall include, for each conference described in that subsection held during the applicable quarter—

(1) a description of the subject of and number of participants attending that conference;

(2) a detailed statement of the costs to the Government relating to that conference, including—

(A) the cost of any food or beverages;

(B) the cost of any audio-visual services; and

(C) a discussion of the methodology used to determine which costs relate to that conference; and

(3) a description of the contracting procedures relating to that conference, including—

(A) whether contracts were awarded on a competitive basis for that conference; and

(B) a discussion of any cost comparison conducted by the department, agency, board or commission in evaluating potential contractors for that conference.

SEC. 539. (a) None of the funds made available in this Act may be used to maintain or establish a computer network unless such network blocks the viewing, downloading, and exchanging of pornography.

(b) Nothing in subsection (a) shall limit the use of funds necessary for any Federal, State, tribal, or local law enforcement agency or any other entity carrying out criminal investigations, prosecution, or adjudication activities.

SEC. 540. The Departments of Commerce and Justice, the National Aeronautics and Space Administration, and the National Science Foundation are directed to submit spending plans, signed by the respective department or agency head, to the House and Senate Committees on Appropriations within 30 days of enactment of this Act.

COMMISSION ON WARTIME RELOCATION AND INTERNMENT OF LATIN AMERICANS OF JAPANESE DESCENT

SEC. 541. (a) FINDINGS.—Based on a preliminary study published in December 1982 by the Commission on Wartime Relocation and Internment of Civilians, Congress finds the following:

(1) During World War II, the United States—

(A) expanded its internment program and national security investigations to conduct the program and investigations in Latin America; and

(B) financed relocation to the United States, and internment, of approximately 2,300 Latin Americans of Japanese descent, for the purpose of exchanging the Latin Americans of Japanese descent for United States citizens held by Axis countries.

(2) Approximately 2,300 men, women, and children of Japanese descent from 13 Latin American countries were held in the custody of the Department of State in internment camps operated by the Immigration and Naturalization Service from 1941 through 1948.

(3) Those men, women, and children either—

(A) were arrested without a warrant, hearing, or indictment by local police, and sent to the United States for internment; or

(B) in some cases involving women and children, voluntarily entered internment camps to remain with their arrested husbands, fathers, and other male relatives.

(4) Passports held by individuals who were Latin Americans of Japanese descent were routinely confiscated before the individuals arrived in the United States, and the Department of State ordered United States consuls in Latin American countries to refuse to issue visas to the individuals prior to departure.

(5) Despite their involuntary arrival, Latin American internees of Japanese descent were considered to be and treated as illegal entrants by the Immigration and Naturalization Service. Thus, the internees became illegal aliens in United States custody who were subject to deportation proceedings for immediate removal from the United States. In some cases, Latin American internees of Japanese descent were deported to Axis countries to enable the United States to conduct prisoner exchanges.

(6) Approximately 2,300 men, women, and children of Japanese descent were relocated from their homes in Latin America, detained in internment camps in the United States, and in some cases, deported to Axis countries to enable the United States to conduct prisoner exchanges.

(7) The Commission on Wartime Relocation and Internment of Civilians studied Federal actions conducted pursuant to Executive Order 9066 (relating to authorizing the Secretary of War to prescribe military areas). Although the United States program of interning Latin Americans of Japanese descent was not conducted pursuant to Executive Order 9066, an examination of that extraordinary program is necessary to establish a complete account of Federal actions to detain and intern civilians of enemy or foreign nationality, particularly of Japanese descent. Although historical documents relating to the program exist in distant archives, the Commission on Wartime Relocation and Internment of Civilians did not research those documents.

(8) Latin American internees of Japanese descent were a group not covered by the Civil Liberties Act of 1988 (50 U.S.C. App. 1989b et seq.), which formally apologized and provided compensation payments to former Japanese Americans interned pursuant to Executive Order 9066.

(b) PURPOSE.—The purpose of this section is to establish a fact-finding Commission to extend the study of the Commission on Wartime Relocation and Internment of Civilians to investigate and determine facts and circumstances surrounding the relocation, internment, and deportation to Axis countries of Latin Americans of Japanese descent from December 1941 through February 1948, and the impact of those actions by the United States, and to recommend appropriate remedies, if any, based on preliminary findings by the original Commission and new discoveries.

(c) ESTABLISHMENT OF THE COMMISSION.—

(1) IN GENERAL.—There is established the Commission on Wartime Relocation and Internment of Latin Americans of Japanese descent (referred to in this section as the ''Commission'').

(2) COMPOSITION.—The Commission shall be composed of 9 members, who shall be appointed not later than 60 days after the date of enactment of this section, of whom—

(A) 3 members shall be appointed by the President;

(B) 3 members shall be appointed by the Speaker of the House of Representatives, on the joint recommendation of the majority leader of the House of Representatives and the minority leader of the House of Representatives; and

(C) 3 members shall be appointed by the President pro tempore of the Senate, on the joint recommendation of the majority leader of the Senate and the minority leader of the Senate.

(3) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment was made.

(4) MEETINGS.—

(A) FIRST MEETING.—The President shall call the first meeting of the Commission not later than the later of—

(i) 60 days after the date of enactment of this section; or

(ii) 30 days after the date of enactment of legislation making appropriations to carry out this section.

(B) SUBSEQUENT MEETINGS.—Except as provided in subparagraph (A), the Commission shall meet at the call of the Chairperson.

(5) QUORUM.—Five members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(6) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall elect a Chairperson and Vice Chairperson from among its members. The Chairperson and Vice Chairperson shall serve for the life of the Commission.

(d) DUTIES OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall—

(A) extend the study of the Commission on Wartime Relocation and Internment of Civilians, established by the Commission on Wartime Relocation and Internment of Civilians Act—

(i) to investigate and determine facts and circumstances surrounding the United States' relocation, internment, and deportation to Axis countries of Latin Americans of Japanese descent from December 1941 through February 1948, and the impact of those actions by the United States; and

(ii) in investigating those facts and circumstances, to review directives of the United States Armed Forces and the Department of State requiring the relocation, detention in internment camps, and deportation to Axis countries of Latin Americans of Japanese descent; and

(B) recommend appropriate remedies, if any, based on preliminary findings by the original Commission and new discoveries.

(2) REPORT.—Not later than 1 year after the date of the first meeting of the Commission pursuant to subsection (c)(4)(A), the Commission shall submit a written report to Congress, which shall contain findings resulting from the investigation conducted under paragraph (1)(A) and recommendations described in paragraph (1)(B).

(e) POWERS OF THE COMMISSION.—

(1) HEARINGS.—The Commission or, at its direction, any subcommittee or member of the Commission, may, for the purpose of carrying out this section—

(A) hold such public hearings in such cities and countries, sit and act at such times and places, take such testimony, receive such evidence, and administer such oaths as the Commission or such subcommittee or member considers advisable; and

(B) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, documents, tapes, and materials as the Commission or such subcommittee or member considers advisable.

(2) ISSUANCE AND ENFORCEMENT OF SUBPOENAS.—

(A) ISSUANCE.—Subpoenas issued under paragraph (1) shall bear the signature of the Chairperson of the Commission and shall be served by any person or class of persons designated by the Chairperson for that purpose.

(B) ENFORCEMENT.—In the case of contumacy or failure to obey a subpoena issued under paragraph (1), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(3) WITNESS ALLOWANCES AND FEES.—Section 1821 of title 28, United States Code, shall apply to witnesses requested or subpoenaed to appear at any hearing of the Commission. The per diem and mileage allowances for witnesses shall be paid from funds available to pay the expenses of the Commission.

(4) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to perform its duties. Upon request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

(5) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(f) PERSONNEL AND ADMINISTRATIVE PROVISIONS.—

(1) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(2) TRAVEL EXPENSES.—The members of the Commission 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.

(3) STAFF.—

(A) IN GENERAL.—The Chairperson of the Commission may, without regard to the civil service laws and regulations, appoint and terminate the employment of such personnel as may be necessary to enable the Commission to perform its duties.

(B) COMPENSATION.—The Chairperson of the Commission may fix the compensation of the personnel 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 the personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(4) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(5) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(6) OTHER ADMINISTRATIVE MATTERS.—The Commission may—

(A) enter into agreements with the Administrator of General Services to procure necessary financial and administrative services;

(B) enter into contracts to procure supplies, services, and property; and

(C) enter into contracts with Federal, State, or local agencies, or private institutions or organizations, for the conduct of research or surveys, the preparation of reports, and other activities necessary to enable the Commission to perform its duties.

(g) TERMINATION.—The Commission shall terminate 90 days after the date on which the Commission submits its report to Congress under subsection (d)(2).

(h) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

(2) AVAILABILITY.—Any sums appropriated under the authorization contained in this subsection shall remain available, without fiscal year limitation, until expended.

This Act may be cited as the ''Commerce, Justice, Science, and Related Agencies Appropriations Act, 2012''.

DIVISION C—TRANSPORTATION, HOUSING AND URBAN DEVELOPMENT, AND RELATED AGENCIES

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Transportation, and Housing and Urban Development, and related agencies for the fiscal year ending September 30, 2012, and for other purposes, namely:

TITLE I

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

For necessary expenses of the Office of the Secretary, $102,202,000, of which not to exceed $2,618,000 shall be available for the immediate Office of the Secretary; not to exceed $981,000 shall be available for the Immediate Office of the Deputy Secretary; not to exceed $19,515,000 shall be available for the Office of the General Counsel; not to exceed $11,004,000 shall be available for the Office of the Under Secretary of Transportation for Policy; not to exceed $10,538,000 shall be available for the Office of the Assistant Secretary for Budget and Programs; not to exceed $2,544,000 shall be available for the Office of the Assistant Secretary for Governmental Affairs; not to exceed $25,469,000 shall be available for the Office of the Assistant Secretary for Administration; not to exceed $2,046,000 shall be available for the Office of Public Affairs; not to exceed $1,649,000 shall be available for the Office of the Executive Secretariat; not to exceed $1,492,000 shall be available for the Office of Small and Disadvantaged Business Utilization; not to exceed $10,578,000 for the Office of Intelligence, Security, and Emergency Response; and not to exceed $13,768,000 shall be available for the Office of the Chief Information Officer: *Provided*, That the Secretary of Transportation is authorized to transfer funds appropriated for any office of the Office of the Secretary to any other office of the Office of the Secretary: *Provided further*, That no appropriation for any office shall be increased or decreased by more than 5 percent by all such

transfers: *Provided further*, That notice of any change in funding greater than 5 percent shall be submitted for approval to the House and Senate Committees on Appropriations: *Provided further*, That not to exceed $60,000 shall be for allocation within the Department for official reception and representation expenses as the Secretary may determine: *Provided further*, That notwithstanding any other provision of law, excluding fees authorized in Public Law 107–71, there may be credited to this appropriation up to $2,500,000 in funds received in user fees: *Provided further*, That none of the funds provided in this Act shall be available for the position of Assistant Secretary for Public Affairs.

NATIONAL INFRASTRUCTURE INVESTMENTS

For capital investments in surface transportation infrastructure, $550,000,000, to remain available through September 30, 2013: *Provided*, That the Secretary of Transportation shall distribute funds provided under this heading as discretionary grants to be awarded to a State, local government, transit agency, or a collaboration among such entities on a competitive basis for projects that will have a significant impact on the Nation, a metropolitan area, or a region: *Provided further*, That projects eligible for funding provided under this heading shall include, but not be limited to, highway or bridge projects eligible under title 23, United States Code; public transportation projects eligible under chapter 53 of title 49, United States Code; passenger and freight rail transportation projects; and port infrastructure investments: *Provided further*, That the Secretary may use up to 35 percent of the funds made available under this heading for the purpose of paying the subsidy and administrative costs of projects eligible for Federal credit assistance under chapter 6 of title 23, United States Code, if the Secretary finds that such use of the funds would advance the purposes of this paragraph: *Provided further*, That in distributing funds provided under this heading, the Secretary shall take such measures so as to ensure an equitable geographic distribution of funds, an appropriate balance in addressing the needs of urban and rural areas, and the investment in a variety of transportation modes: *Provided further*, That a grant funded under this heading shall be not less than $10,000,000 and not greater than $200,000,000: *Provided further*, That not more than 25 percent of the funds made available under this heading may be awarded to projects in a single State: *Provided further*, That the Federal share of the costs for which an expenditure is made under this heading shall be, at the option of the recipient, up to 80 percent: *Provided further*, That the Secretary shall give priority to projects that require a contribution of Federal funds in order to complete an overall financing package: *Provided further*, That not less than $120,000,000 of the funds provided under this heading shall be for projects located in rural areas: *Provided further*, That for projects located in rural areas, the minimum grant size shall be $1,000,000 and the Secretary may increase the Federal share of costs above 80 percent: *Provided further*, That projects conducted using funds provided under this heading must comply with the requirements of subchapter IV of chapter 31 of title 40, United States Code: *Provided further*, That the Secretary shall conduct a new competition to select the grants and credit assistance awarded under this heading: *Provided further*, That the Secretary may retain up to $25,000,000 of the funds provided under this heading, and may transfer portions of those funds to the Administrators of the Federal Highway Administration, the Federal Transit Administration, the Federal Railroad Administration and the Federal Maritime Administration, to fund the award and oversight of grants and credit assistance made under this heading.

FINANCIAL MANAGEMENT CAPITAL

For necessary expenses for upgrading and enhancing the Department of Transportation's financial systems and re-engineering business processes, $4,990,000, to remain available through September 30, 2013.

CYBER SECURITY INITIATIVES

For necessary expenses for cyber security initiatives, including improvement of network perimeter controls and identity management, testing and assessment of information technology against business, security, and other requirements, implementation of Federal cyber security initiatives and information infrastructure enhancements, implementation of enhanced security controls on network devices, and enhancement of cyber security workforce training tools, $10,000,000, to remain available through September 30, 2013.

OFFICE OF CIVIL RIGHTS

For necessary expenses of the Office of Civil Rights, $9,648,000.

TRANSPORTATION PLANNING, RESEARCH, AND DEVELOPMENT

For necessary expenses for conducting transportation planning, research, systems development, development activities, and making grants, to remain available until expended, $9,000,000.

WORKING CAPITAL FUND

For necessary expenses for operating costs and capital outlays of the Working Capital Fund, not to exceed $147,596,000 shall be paid from appropriations made available to the Department of Transportation: *Provided*, That such services shall be provided on a competitive basis to entities within the Department of Transportation: *Provided further*, That the above limitation on operating expenses shall not apply to non-DOT entities: *Provided further*, That no funds appropriated in this Act to an agency of the Department shall be transferred to the Working Capital Fund without the approval of the agency modal administrator: *Provided further*, That no assessments may be levied against any program, budget activity, subactivity or project funded by this Act unless notice of such assessments and the basis therefor are presented to the House and Senate Committees on Appropriations and are approved by such Committees.

MINORITY BUSINESS RESOURCE CENTER PROGRAM

For the cost of guaranteed loans, $351,000, as authorized by 49 U.S.C. 332: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $18,367,000. In addition, for administrative expenses to carry out the guaranteed loan program, $570,000.

MINORITY BUSINESS OUTREACH

For necessary expenses of Minority Business Resource Center outreach activities, $3,068,000, to remain available until September 30, 2013: *Provided*, That notwithstanding 49 U.S.C. 332, these funds may be used for business opportunities related to any mode of transportation.

PAYMENTS TO AIR CARRIERS

(AIRPORT AND AIRWAY TRUST FUND)

(INCLUDING TRANSFER OF FUNDS)

In addition to funds made available from any other source to carry out the essential air service program under 49 U.S.C. 41731 through 41742, $143,000,000, to be derived from the Airport and Airway Trust Fund, to remain available until expended: *Provided*, That in determining between or among carriers competing to provide service to a community, the Secretary may consider the relative subsidy requirements of the carriers: *Provided further*, That no funds made available under section 41742 of title 49, United States Code, and no funds made available in this Act or any other Act in any fiscal year, shall be available to carry out the essential air service program under sections 41731 through 41742 of such title 49 in communities in the 48 contiguous States unless the community received subsidized essential air service or received a 90-day notice of intent to terminate service and the Secretary required the air carrier to continue to provide service to the community at any time between September 30, 2010, and September 30, 2011, inclusive: *Provided further*, That basic essential air service minimum requirements shall not include the 15-passenger capacity requirement under subsection 41732(b)(3) of title 49, United States Code: *Provided further*, That if the funds under this heading are insufficient to meet the costs of the essential air service program in the current fiscal year, the Secretary shall transfer such sums as may be necessary to carry out the essential air service program from any available amounts appropriated to or directly administered by the Office of the Secretary for such fiscal year.

ADMINISTRATIVE PROVISIONS—OFFICE OF THE SECRETARY OF TRANSPORTATION

SEC. 101. None of the funds made available in this Act to the Department of Transportation may be obligated for the Office of the Secretary of Transportation to approve assessments or reimbursable agreements pertaining to funds appropriated to the modal administrations in this Act, except for activities underway on the date of enactment of this Act, unless such assessments or agreements have completed the normal reprogramming process for Congressional notification.

SEC. 102. None of the funds made available under this Act may be obligated or expended to establish or implement a program under which essential air service communities are required to assume subsidy costs commonly referred to as the EAS local participation program.

SEC. 103. The Secretary or his designee may engage in activities with States and State legislators to consider proposals related to the reduction of motorcycle fatalities.

(RESCISSION)

SEC. 104. Of the amounts made available by section 185 of Public Law 109–115, all unobligated balances as of the date of enactment of this Act are hereby rescinded.

SEC. 105. Notwithstanding section 3324 of title 31, United States Code, in addition to authority provided by section 327 of title 49, United States Code, the Department's Working Capital Fund is hereby authorized to provide payments in advance to vendors that are necessary to carry out the Federal transit pass transportation fringe benefit program under Executive Order 13150 and section 3049 of Public Law 109–59: *Provided*, That the Department shall include adequate safeguards in the contract with the vendors to ensure timely and high-quality performance under the contract.

SEC. 106. The Secretary shall post on the Web site of the Department of Transportation a schedule of all meetings of the Credit Council, including the agenda for each meeting, and require the Credit Council to record the minutes of each meeting.

FEDERAL AVIATION ADMINISTRATION

OPERATIONS

(AIRPORT AND AIRWAY TRUST FUND)

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Federal Aviation Administration, not otherwise provided for, including operations and research activities related to commercial space transportation, administrative expenses for research and development, establishment of air navigation facilities, the operation (including leasing) and maintenance of aircraft, subsidizing the cost of aeronautical charts and maps sold to the public, lease or purchase of passenger motor vehicles for replacement only, in addition to amounts made available by Public Law 108–176, $9,635,710,000, of which $5,000,000,000 shall be derived from the Airport and Airway Trust Fund, of which not to exceed $7,560,815,000 shall be available for air traffic organization activities; not to exceed $1,253,381,000 shall be available for aviation safety activities; not to exceed $15,005,000 shall be available for commercial space transportation activities; not to exceed $112,459,000 shall be available for financial services activities; not to exceed $98,858,000 shall be available for human resources program activities; not to exceed $337,944,000 shall be available for region and center operations and regional coordination activities; not to exceed $207,065,000 shall be available for staff offices; and not to exceed $50,183,000 shall be available for information services: *Provided*, That not to exceed 2 percent of any budget activity, except for aviation safety budget activity, may be transferred to any budget activity under this heading: *Provided further*, That no transfer may increase or decrease any appropriation by more than 2 percent: *Provided further*, That any transfer in excess of 2 percent shall be treated as a reprogramming of funds under section 405 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section: *Provided further*, That not later than May 31, 2012, the Administrator shall submit to the House and Senate Committees on Appropriations a comprehensive report that describes all of the findings and conclusions reached during the Federal Aviation Administration's efforts to develop an objective, data-driven method for placing air traffic controllers after the successful completion of their training at the Federal Aviation Administration Academy, lists all available options for establishing such method, and discusses the benefits and challenges of each option: *Provided further*, That not later than March 31 of each fiscal year hereafter, the Administrator of the Federal Aviation Administration shall transmit to Congress an annual update to the report submitted to Congress in December 2004 pursuant to section 221 of Public Law 108–176: *Provided further*, That the amount herein appropriated shall be reduced by $100,000 for each day after March 31 that such report has not been submitted to the Congress: *Provided further*, That not later than March 31 of each fiscal year hereafter, the Administrator shall transmit to Congress a companion report that describes a comprehensive strategy for staffing, hiring, and training flight standards and aircraft certification staff in a format similar to the one utilized for the controller staffing plan, including stated attrition estimates and numerical hiring goals by fiscal year, and a benchmark for assessing the amount of time aviation inspectors spend directly observing industry field operations: *Provided further*, That the amount herein appropriated shall be reduced by $100,000 per day for each day after March 31 that such report has not been submitted to Congress: *Provided further*, That funds may be used to enter into a grant agreement with a nonprofit standard-setting organization to assist in the development of aviation safety standards: *Provided further*, That none of the funds in this Act shall be available for new applicants for the second career training program: *Provided further*, That none of the funds in this Act shall be available for the Federal Aviation Administration to finalize or implement any regulation that would promulgate new aviation user fees not specifically authorized by law after the date of the enactment of this Act: *Provided further*, That there may be credited to this appropriation as offsetting collections funds received from States, counties, municipalities, foreign authorities, other public authorities, and private sources for expenses incurred in the provision of agency services, including receipts for the maintenance and operation of air navigation facilities, and for issuance, renewal or modification of certificates, including airman, aircraft, and repair station certificates, or for tests related thereto, or for processing major repair or alteration forms: *Provided further*, That of the funds appropriated under this heading, not less than $9,500,000 shall be for the contract tower cost-sharing program: *Provided further*, That none of the funds in this Act for aeronautical charting and cartography are available for activities conducted by, or coordinated through, the Working Capital Fund.

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for acquisition, establishment, technical support services, improvement by contract or purchase, and hire of national airspace systems and experimental facilities and equipment, as authorized under part A of subtitle VII of title 49, United States Code, including initial acquisition of necessary sites by lease or grant; engineering and service testing, including construction of test facilities and acquisition of necessary sites by lease or grant; construction and furnishing of quarters and related accommodations for officers and employees of the Federal Aviation Administration stationed at remote localities where such accommodations are not available; and the purchase, lease, or transfer of aircraft from funds available under this heading, including aircraft for aviation regulation and certification; to be derived from the Airport and Airway Trust Fund, $2,630,731,000, of which $474,000,000 shall remain available until September 30, 2012, and of which $2,156,731,000 shall remain available until September 30, 2014: *Provided*, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred in the establishment, improvement, and modernization of national airspace systems: *Provided further*, That upon initial submission to the Congress of the fiscal year 2013 President's budget, the Secretary of Transportation shall transmit to the Congress a comprehensive capital investment plan for the Federal Aviation Administration which includes funding for each budget line item for fiscal years 2013 through 2017, with total funding for each year of the plan constrained to the funding targets for those years as estimated and approved by the Office of Management and Budget.

RESEARCH, ENGINEERING, AND DEVELOPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for research, engineering, and development, as authorized under part A of subtitle VII of title 49, United States Code, including construction of experimental facilities and acquisition of necessary sites by lease or grant, $157,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until September 30, 2014: *Provided*, That there may be credited to this appropriation as offsetting collections, funds received from States, counties, municipalities, other public authorities, and private sources, which shall be available for expenses incurred for research, engineering, and development.

GRANTS-IN-AID FOR AIRPORTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(LIMITATION ON OBLIGATIONS)

(AIRPORT AND AIRWAY TRUST FUND)

(INCLUDING TRANSFER OF FUNDS)

For liquidation of obligations incurred for grants-in-aid for airport planning and development, and noise compatibility planning and programs as authorized under subchapter I of chapter 471 and subchapter I of chapter 475 of title 49, United States Code, and under other law authorizing such obligations; for procurement, installation, and commissioning of runway incursion prevention devices and systems at airports of such title; for grants authorized under section 41743 of title 49, United States Code; and for inspection activities and administration of airport safety programs, including those related to airport operating certificates under section 44706 of title 49, United States Code, $4,691,000,000 to be derived from the Airport and Airway Trust Fund and to remain available until expended: *Provided*, That none of the funds under this heading shall be available for the planning or execution of programs the obligations for which are in excess of $3,515,000,000 in fiscal year 2012, notwithstanding section 47117(g) of title 49, United States Code: *Provided further*, That none of the funds under this heading shall be available for the replacement of baggage conveyor systems, reconfiguration of terminal baggage areas, or other airport improvements that are necessary to install bulk explosive detection systems: *Provided further*, That notwithstanding any other provision of law, of funds limited under this heading, not more than $101,000,000 shall be obligated for administration, not less than $15,000,000 shall be available for the airport cooperative research program, not less than $29,250,000 shall be for Airport Technology Research and $6,000,000, to remain available until expended, shall be available and transferred to ''Office of the Secretary, Salaries and Expenses'' to carry out the Small Community Air Service Development Program.

ADMINISTRATIVE PROVISIONS—FEDERAL AVIATION ADMINISTRATION

SEC. 110. None of the funds in this Act may be used to compensate in excess of 600 technical staff-years under the federally funded research and development center contract between the Federal Aviation Administration and the Center for Advanced Aviation Systems Development during fiscal year 2012.

SEC. 111. None of the funds in this Act shall be used to pursue or adopt guidelines or regulations requiring airport sponsors to provide to the Federal Aviation Administration without cost building construction, maintenance, utilities and expenses, or space in airport sponsor-owned buildings for services relating to air traffic control, air navigation, or weather reporting: *Provided*, That the prohibition of funds in this section does not apply to negotiations between the agency and airport sponsors to achieve agreement on ''below-market'' rates for these items or to grant assurances that require airport sponsors to provide land without cost to the FAA for air traffic control facilities.

SEC. 112. The Administrator of the Federal Aviation Administration may reimburse

amounts made available to satisfy 49 U.S.C. 41742(a)(1) from fees credited under 49 U.S.C. 45303: *Provided*, That during fiscal year 2012, 49 U.S.C. 41742(b) shall not apply, and any amount remaining in such account at the close of that fiscal year may be made available to satisfy section 41742(a)(1) for the subsequent fiscal year.

SEC. 113. Amounts collected under section 40113(e) of title 49, United States Code, shall be credited to the appropriation current at the time of collection, to be merged with and available for the same purposes of such appropriation.

SEC. 114. None of the funds limited by this Act for grants under the Airport Improvement Program shall be made available to the sponsor of a commercial service airport if such sponsor fails to agree to a request from the Secretary of Transportation for cost-free space in a nonrevenue producing, public use area of the airport terminal or other airport facilities for the purpose of carrying out a public service air passenger rights and consumer outreach campaign.

SEC. 115. None of the funds in this Act shall be available for paying premium pay under subsection 5546(a) of title 5, United States Code, to any Federal Aviation Administration employee unless such employee actually performed work during the time corresponding to such premium pay.

SEC. 116. None of the funds in this Act may be obligated or expended for an employee of the Federal Aviation Administration to purchase a store gift card or gift certificate through use of a Government-issued credit card.

SEC. 117. The Secretary shall apportion to the sponsor of an airport that received scheduled or unscheduled air service from a large certified air carrier (as defined in part 241 of title 14 Code of Federal Regulations, or such other regulations as may be issued by the Secretary under the authority of section 41709) an amount equal to the minimum apportionment specified in 49 U.S.C. 47114(c), if the Secretary determines that airport had more than 10,000 passenger boardings in the preceding calendar year, based on data submitted to the Secretary under part 241 of title 14, Code of Federal Regulations.

SEC. 118. None of the funds in this Act may be obligated or expended for retention bonuses for an employee of the Federal Aviation Administration without the prior written approval of the Deputy Assistant Secretary for Administration of the Department of Transportation.

SEC. 119. Subparagraph (D) of section 47124(b)(3) of title 49, United States Code, is amended by striking ''benefit.'' and inserting ''benefit, with the maximum allowable local cost share capped at 20 percent.''.

SEC. 119A. Notwithstanding any other provision of law, none of the funds made available under this Act or any prior Act may be used to implement or to continue to implement any limitation on the ability of any owner or operator of a private aircraft to obtain, upon a request to the Administrator of the Federal Aviation Administration, a blocking of that owner's or operator's aircraft registration number from any display of the Federal Aviation Administration's Aircraft Situational Display to Industry data that is made available to the public, except data made available to a Government agency, for the noncommercial flights of that owner or operator.

SEC. 119B. (a) COMPENSATION FOR FEDERAL EMPLOYEES.—Any Federal employees furloughed as a result of the lapse in expenditure authority from the Airport and Airway Trust Fund after 11:59 p.m. on July 22, 2011, through August 5, 2011, may be compensated for the period of that lapse at their standard rates of compensation, as determined under policies established by the Secretary of Transportation.

(b) RATIFICATION OF ESSENTIAL ACTIONS.—All actions taken by Federal employees, contractors, and grantees for the purposes of maintaining the essential level of Government operations, services, and activities to protect life and property and to bring about orderly termination of Government functions during the lapse in expenditure authority from the Airport and Airway Trust Fund after 11:59 p.m. on July 22, 2011, through August 5, 2011, are hereby ratified and approved, if otherwise in accord with the provisions of the Airport and Airway Extension Act of 2011, part IV (Public Law 112–27).

(c) TRUST FUND CODE.—Paragraph (1) of section 9502(d) of the Internal Revenue Code of 1986 (26 U.S.C. 9502(d)(1)) is amended by inserting ''or the Department of Transportation Appropriations Act, 2012'' before the semicolon at the end of subparagraph (A).

FEDERAL HIGHWAY ADMINISTRATION

FEDERAL-AID HIGHWAYS

LIMITATION ON ADMINISTRATIVE EXPENSES

(HIGHWAY TRUST FUND)

(INCLUDING TRANSFER OF FUNDS)

Not to exceed $415,533,000, together with advances and reimbursements received by the Federal Highway Administration, shall be paid in accordance with law from appropriations made available by this Act to the Federal Highway Administration for necessary expenses for administration and operation. In addition, not to exceed $3,220,000 shall be paid from appropriations made available by this Act and transferred to the Appalachian Regional Commission in accordance with section 104 of title 23, United States Code.

LIMITATION ON OBLIGATIONS

(HIGHWAY TRUST FUND)

None of the funds in this Act shall be available for the implementation or execution of programs, the obligations for which are in excess of $41,107,000,000 for Federal-aid highways and highway safety construction programs for fiscal year 2012: *Provided*, That within the $41,107,000,000 obligation limitation on Federal-aid highways and highway safety construction programs, not more than $429,800,000 shall be available for the implementation or execution of programs for transportation research (chapter 5 of title 23, United States Code; sections 111, 5505, and 5506 of title 49, United States Code; and title 5 of Public Law 109–59) for fiscal year 2012: *Provided further*, That this limitation on transportation research programs shall not apply to any authority previously made available for obligation: *Provided further*, That the Secretary may, as authorized by section 605(b) of title 23, United States Code, collect and spend fees to cover the costs of services of expert firms, including counsel, in the field of municipal and project finance to assist in the underwriting and servicing of Federal credit instruments and all or a portion of the costs to the Federal Government of servicing such credit instruments: *Provided further*, That such fees are available until expended to pay for such costs: *Provided further*, That such amounts are in addition to administrative expenses that are also available for such purpose, and are not subject to any obligation limitation or the limitation on administrative expenses under section 608 of title 23, United States Code.

LIQUIDATION OF CONTRACT AUTHORIZATION

(HIGHWAY TRUST FUND)

For carrying out the provisions of title 23, United States Code, that are attributable to Federal-aid highways, not otherwise provided, including reimbursement for sums expended pursuant to the provisions of 23 U.S.C. 308, $41,846,000,000 or so much thereof as may be available in and derived from the Highway Trust Fund (other than the Mass Transit Account), to remain available until expended.

EMERGENCY RELIEF

For an additional amount for the Emergency Relief Program as authorized under section 125 of title 23, United States Code, $1,900,000,000, to remain available until expended, for expenses resulting from a major disaster designated pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)): *Provided*, That notwithstanding section 125(d)(1) of title 23, United States Code, for an event resulting from a disaster eligible under section 125 of title 23, United States Code, in a State occurring in fiscal years 2011 or 2012, the Secretary of Transportation may obligate under the Emergency Relief Program more than $100,000,000 for eligible expenses: *Provided further*, That notwithstanding section 120 of title 23, United States Code, for expenses resulting from a disaster eligible under section 125 of title 23, United States Code, occurring in fiscal years 2011 or 2012, the Secretary shall extend the time period in 120(e) in consideration of any delay in the State's ability to access damaged facilities to evaluate damage and estimate the cost of repair: *Provided further*, That notwithstanding sections 120(a) and 120(b) of title 23, United States Code, the Federal share for permanent repairs resulting from a disaster eligible under section 125 of title 23, United States Code, occurring in fiscal years 2011 or 2012 may be up to 100 percent at the Secretary's discretion if the eligible expenses incurred by a State due to such a disaster exceeds twice the State's annual apportionment under the Federal-aid Highway program for the year in which the disaster occurred: *Provided further*, That the amount provided under this heading is designated by Congress as being for disaster relief pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99–177), as amended.

RESCISSION

Of unobligated balances of funds made available for obligation from the general fund of the Treasury for programs administered by the Federal Highway Administration in Public Laws 91–605, 93–87, 93–643, 94–280, 96–131, 97–424, 98–8, 98–473, 99–190, 100–17, 100–202, 100–457, 101–164, 101–516, 102–143, 102–240, 103–122, 103–331, 106–346, 107–87, 108–7 and 108–199, excluding any unobligated balance of funds provided for the Appalachian Development Highway System, $73,000,000 are permanently rescinded.

ADMINISTRATIVE PROVISIONS—FEDERAL HIGHWAY ADMINISTRATION

SEC. 120. (a) For fiscal year 2012, the Secretary of Transportation shall—

(1) not distribute from the obligation limitation for Federal-aid highways amounts authorized for administrative expenses and programs by section 104(a) of title 23, United States Code; programs funded from the administrative takedown authorized by section 104(a)(1) of title 23, United States Code (as in effect on the date before the date of enactment of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users); the highway use tax evasion program; and the Bureau of Transportation Statistics;

(2) not distribute an amount from the obligation limitation for Federal-aid highways that is equal to the unobligated balance of amounts made available from the Highway Trust Fund (other than the Mass Transit Account) for Federal-aid highways and highway safety programs for previous fiscal years the

funds for which are allocated by the Secretary;

(3) determine the ratio that—

(A) the obligation limitation for Federal-aid highways, less the aggregate of amounts not distributed under paragraphs (1) and (2), bears to

(B) the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction programs (other than sums authorized to be appropriated for provisions of law described in paragraphs (1) through (9) of subsection (b) and sums authorized to be appropriated for section 105 of title 23, United States Code, equal to the amount referred to in subsection (b)(10) for such fiscal year), less the aggregate of the amounts not distributed under paragraphs (1) and (2) of this subsection;

(4)(A) distribute the obligation limitation for Federal-aid highways, less the aggregate amounts not distributed under paragraphs (1) and (2), for sections 1301, 1302, and 1934 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users; sections 117 and section 144(g) of title 23, United States Code; and section 14501 of title 40, United States Code, so that the amount of obligation authority available for each of such sections is equal to the amount determined by multiplying the ratio determined under paragraph (3) by the sums authorized to be appropriated for that section for the fiscal year; and

(B) distribute $2,000,000,000 for section 105 of title 23, United States Code;

(5) distribute the obligation limitation provided for Federal-aid highways, less the aggregate amounts not distributed under paragraphs (1) and (2) and amounts distributed under paragraph (4), for each of the programs that are allocated by the Secretary under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users and title 23, United States Code (other than to programs to which paragraphs (1) and (4) apply), by multiplying the ratio determined under paragraph (3) by the amounts authorized to be appropriated for each such program for such fiscal year; and

(6) distribute the obligation limitation provided for Federal-aid highways, less the aggregate amounts not distributed under paragraphs (1) and (2) and amounts distributed under paragraphs (4) and (5), for Federal-aid highways and highway safety construction programs (other than the amounts apportioned for the equity bonus program, but only to the extent that the amounts apportioned for the equity bonus program for the fiscal year are greater than $2,639,000,000, and the Appalachian development highway system program) that are apportioned by the Secretary under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users and title 23, United States Code, in the ratio that—

(A) amounts authorized to be appropriated for such programs that are apportioned to each State for such fiscal year, bear to

(B) the total of the amounts authorized to be appropriated for such programs that are apportioned to all States for such fiscal year.

(b) EXCEPTIONS FROM OBLIGATION LIMITATION.—The obligation limitation for Federal-aid highways shall not apply to obligations:

(1) under section 125 of title 23, United States Code;

(2) under section 147 of the Surface Transportation Assistance Act of 1978;

(3) under section 9 of the Federal-Aid Highway Act of 1981;

(4) under subsections (b) and (j) of section 131 of the Surface Transportation Assistance Act of 1982;

(5) under subsections (b) and (c) of section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987;

(6) under sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991;

(7) under section 157 of title 23, United States Code, as in effect on the day before the date of the enactment of the Transportation Equity Act for the 21st Century;

(8) under section 105 of title 23, United States Code, as in effect for fiscal years 1998 through 2004, but only in an amount equal to $639,000,000 for each of those fiscal years;

(9) for Federal-aid highway programs for which obligation authority was made available under the Transportation Equity Act for the 21st Century or subsequent public laws for multiple years or to remain available until used, but only to the extent that the obligation authority has not lapsed or been used;

(10) under section 105 of title 23, United States Code, but only in an amount equal to $639,000,000 for each of fiscal years 2005 through 2010; and

(11) under section 1603 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, to the extent that funds obligated in accordance with that section were not subject to a limitation on obligations at the time at which the funds were initially made available for obligation.

(c) REDISTRIBUTION OF UNUSED OBLIGATION AUTHORITY.—Notwithstanding subsection (a), the Secretary shall, after August 1 of such fiscal year, revise a distribution of the obligation limitation made available under subsection (a) if the amount distributed cannot be obligated during that fiscal year, and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year, giving priority to those States having large unobligated balances of funds apportioned under sections 104 and 144 of title 23, United States Code.

(d) APPLICABILITY OF OBLIGATION LIMITATIONS TO TRANSPORTATION RESEARCH PROGRAMS.—The obligation limitation shall apply to transportation research programs carried out under chapter 5 of title 23, United States Code, and title V (research title) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, except that obligation authority made available for such programs under such limitation shall remain available for a period of 3 fiscal years and shall be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years.

(e) REDISTRIBUTION OF CERTAIN AUTHORIZED FUNDS.—

(1) IN GENERAL.—Not later than 30 days after the date of the distribution of obligation limitation under subsection (a), the Secretary shall distribute to the States any funds that—

(A) are authorized to be appropriated for such fiscal year for Federal-aid highways programs; and

(B) the Secretary determines will not be allocated to the States, and will not be available for obligation, in such fiscal year due to the imposition of any obligation limitation for such fiscal year.

(2) RATIO.—Funds shall be distributed under paragraph (1) in the same ratio as the distribution of obligation authority under subsection (a)(6).

(3) AVAILABILITY.—Funds distributed under paragraph (1) shall be available for any purposes described in section 133(b) of title 23, United States Code.

(f) SPECIAL LIMITATION CHARACTERISTICS.—Obligation limitation distributed for a fiscal year under subsection (a)(4) for the provision specified in subsection (a)(4) shall—

(1) remain available until used for obligation of funds for that provision; and

(2) be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years.

(g) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to limit the distribution of obligation authority under subsection (a)(4)(A) for each of the individual projects numbered greater than 3676 listed in the table contained in section 1702 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users.

SEC. 121. Notwithstanding 31 U.S.C. 3302, funds received by the Bureau of Transportation Statistics from the sale of data products, for necessary expenses incurred pursuant to 49 U.S.C. 111 may be credited to the Federal-aid Highways account for the purpose of reimbursing the Bureau for such expenses: *Provided*, That such funds shall be subject to the obligation limitation for Federal-aid Highways and highway safety construction programs.

SEC. 122. Not less than 15 days prior to waiving, under his statutory authority, any Buy America requirement for Federal-aid highway projects, the Secretary of Transportation shall make an informal public notice and comment opportunity on the intent to issue such waiver and the reasons therefor: *Provided*, That the Secretary shall provide an annual report to the House and Senate Committees on Appropriations on any waivers granted under the Buy America requirements.

SEC. 123. (a) IN GENERAL.—Except as provided in subsection (b), none of the funds made available, limited, or otherwise affected by this Act shall be used to approve or otherwise authorize the imposition of any toll on any segment of highway located on the Federal-aid system in the State of Texas that—

(1) as of the date of enactment of this Act, is not tolled;

(2) is constructed with Federal assistance provided under title 23, United States Code; and

(3) is in actual operation as of the date of enactment of this Act.

(b) EXCEPTIONS.—

(1) NUMBER OF TOLL LANES.—Subsection (a) shall not apply to any segment of highway on the Federal-aid system described in that subsection that, as of the date on which a toll is imposed on the segment, will have the same number of nontoll lanes as were in existence prior to that date.

(2) HIGH-OCCUPANCY VEHICLE LANES.—A high-occupancy vehicle lane that is converted to a toll lane shall not be subject to this section, and shall not be considered to be a nontoll lane for purposes of determining whether a highway will have fewer nontoll lanes than prior to the date of imposition of the toll, if—

(A) high-occupancy vehicles occupied by the number of passengers specified by the entity operating the toll lane may use the toll lane without paying a toll, unless otherwise specified by the appropriate county, town, municipal or other local government entity, or public toll road or transit authority; or

(B) each high-occupancy vehicle lane that was converted to a toll lane was constructed as a temporary lane to be replaced by a toll lane under a plan approved by the appropriate county, town, municipal or other local government entity, or public toll road or transit authority.

SEC. 124. Of the funds made available in fiscal year 2012 for the Surface Transportation Research, Development, and Deployment Program, the Secretary of Transportation shall transfer $5,000,000 to the Bureau of Transportation Statistics to carry out section 111 of title 49, United States Code: *Provided*, That an equivalent amount of fiscal

year 2012 obligation limitation associated with the funds to be transferred shall also be transferred.

SEC. 125. Section 109 of title 23, United States Code, is amended by adding at the end—

''(r) GUARDRAILS.—The Secretary shall not approve any project that includes beam rail elements and terminal sections that are not galvanized in accordance with AASHTO M–180, Class A, Type II, except that the rail shall be galvanized after fabrication to include forming, cutting, shearing, punching, drilling, bending, welding, and riveting.''.

SEC. 126. Section 127(a)(11) of title 23, United States Code, is amended to read as follows:

''(11)(A) With respect to all portions of the Interstate Highway System in the State of Maine, laws (including regulations) of that State concerning vehicle weight limitations applicable to other State highways shall be applicable in lieu of the requirements under this subsection.

''(B) With respect to all portions of the Interstate Highway System in the State of Vermont, laws (including regulations) of that State concerning vehicle weight limitations applicable to other State highways shall be applicable in lieu of the requirements under this subsection.''.

SEC. 127. Section 112 of the Surface and Air Transportation Programs Extension Act of 2011 is amended by striking ''$196,427,625'' and inserting ''an amount equal to one-half the sum authorized for such purpose for fiscal year 2011 by section 412(a)(2) of the Surface Transportation Extension Act of 2010''.

SEC. 128. Any road, highway, or bridge that is in operation for less than 30 years or under construction, damaged by an emergency declared by the Governor of the State and concurred in by the Secretary, or declared by the President pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121), may be reconstructed in the same location with the same capacity, dimensions, and design as before the emergency and shall be exempt from any environmental reviews, approvals, licensing, and permit requirements under—

(1) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(2) sections 402 and 404 of the Federal Water Pollution Control Act (33 U.S.C. 1342, 1344);

(3) the National Historic Preservation Act (16 U.S.C. 470 et seq.);

(4) the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.);

(5) the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.);

(6) the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.);

(7) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), except when the reconstruction occurs in designated critical habitat for threatened and endangered species;

(8) Executive Order 11990 (42 U.S.C. 4321 note; relating to the protection of wetlands); and

(9) any Federal law (including regulations) requiring no net loss of wetlands.

FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

MOTOR CARRIER SAFETY OPERATIONS AND PROGRAMS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in the implementation, execution and administration of motor carrier safety operations and programs pursuant to section 31104(i) of title 49, United States Code, and sections 4127 and 4134 of Public Law 109–59, $250,023,000, to be derived from the Highway Trust Fund (other than the Mass Transit Account), together with advances and reimbursements received by the Federal Motor Carrier Safety Administration, the sum of which shall remain available until expended: *Provided*, That none of the funds derived from the Highway Trust Fund in this Act shall be available for the implementation, execution or administration of programs, the obligations for which are in excess of $250,023,000, for ''Motor Carrier Safety Operations and Programs'' of which $8,543,000, to remain available for obligation until September 30, 2014, is for the research and technology program and $1,000,000 shall be available for commercial motor vehicle operator's grants to carry out section 4134 of Public Law 109–59: *Provided further*, That notwithstanding any other provision of law, none of the funds under this heading for outreach and education shall be available for transfer: *Provided further*, That the Federal Motor Carrier Safety Administration shall transmit to Congress a report on March 30, 2012, and September 30, 2012, on the agency's ability to meet its requirement to conduct compliance reviews on high-risk carriers.

MOTOR CARRIER SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

(INCLUDING RESCISSION)

For payment of obligations incurred in carrying out sections 31102, 31104(a), 31106, 31107, 31109, 31309, 31313 of title 49, United States Code, and sections 4126 and 4128 of Public Law 109–59, $307,000,000, to be derived from the Highway Trust Fund (other than the Mass Transit Account) and to remain available until expended: *Provided*, That none of the funds in this Act shall be available for the implementation or execution of programs, the obligations for which are in excess of $307,000,000, for ''Motor Carrier Safety Grants''; of which $212,000,000 shall be available for the motor carrier safety assistance program to carry out sections 31102 and 31104(a) of title 49, United States Code; $30,000,000 shall be available for the commercial driver's license improvements program to carry out section 31313 of title 49, United States Code; $32,000,000 shall be available for the border enforcement grants program to carry out section 31107 of title 49, United States Code; $5,000,000 shall be available for the performance and registration information system management program to carry out sections 31106(b) and 31109 of title 49, United States Code; $25,000,000 shall be available for the commercial vehicle information systems and networks deployment program to carry out section 4126 of Public Law 109–59; and $3,000,000 shall be available for the safety data improvement program to carry out section 4128 of Public Law 109–59: *Provided further*, That of the funds made available for the motor carrier safety assistance program, $32,000,000 shall be available for audits of new entrant motor carriers: *Provided further*, That of the prior year unobligated balances for the commercial vehicle information systems and networks deployment program, $1,000,000 is permanently rescinded.

ADMINISTRATIVE PROVISION—FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

SEC. 130. Funds appropriated or limited in this Act shall be subject to the terms and conditions stipulated in section 350 of Public Law 107–87 and section 6901 of Public Law 110–28, including that the Secretary submit a report to the House and Senate Appropriations Committees annually on the safety and security of transportation into the United States by Mexico-domiciled motor carriers.

SEC. 131. Notwithstanding any other provision of law, States receiving funds for core or expanded deployment activities under the Commercial Vehicle Information Systems and Networks program pursuant to sections 4101(c)(4) and 4126 of Public Law 109–59 that did not meet award eligibility requirements set forth in section 4126; received grant amounts in excess of the maximum amounts specified in sections 4126(c)(2) or 4126(d)(3); or were awarded grants either prior to or after the expiration of the period of performance specified in a grant agreement need not repay such funds.

SEC. 132. (a) No recipient of funds made available in this Act shall disseminate personal information (as defined in 18 U.S.C. 2725(3)) obtained by a State department of motor vehicles in connection with a motor vehicle record as defined in 18 U.S.C. 2725(1), except as provided in 18 U.S.C. 2721 for a use permitted under 18 U.S.C. 2721.

(b) Notwithstanding subsection (a), the Secretary shall not withhold funds provided in this Act for any grantee if a State is in noncompliance with this provision.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

OPERATIONS AND RESEARCH

For expenses necessary to discharge the functions of the Secretary, with respect to traffic and highway safety under subtitle C of title X of Public Law 109–59 and chapter 301 and part C of subtitle VI of title 49, United States Code, $140,146,000, of which $20,000,000 shall remain available through September 30, 2013.

OPERATIONS AND RESEARCH

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out the provisions of 23 U.S.C. 403, and chapter 303 of title 49, United States Code, $109,500,000, to be derived from the Highway Trust Fund (other than the Mass Transit Account) and to remain available until expended: *Provided*, That none of the funds in this Act shall be available for the planning or execution of programs the total obligations for which, in fiscal year 2012, are in excess of $109,500,000 for programs authorized under 23 U.S.C. 403 and chapter 303 of title 49, United States Code: *Provided further*, That within the $109,500,000 obligation limitation for operations and research, $20,000,000 shall remain available until September 30, 2013 and shall be in addition to the amount of any limitation imposed on obligations for future years.

HIGHWAY TRAFFIC SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out the provisions of 23 U.S.C. 402, 405, 406, 408, and 410 and sections 2001(a)(11), 2009, 2010, and 2011 of Public Law 109–59, to remain available until expended, $550,328,000 to be derived from the Highway Trust Fund (other than the Mass Transit Account): *Provided*, That none of the funds in this Act shall be available for the planning or execution of programs the total obligations for which, in fiscal year 2012, are in excess of $550,328,000 for programs authorized under 23 U.S.C. 402, 405, 406, 408, and 410 and sections 2001(a)(11), 2009, 2010, and 2011 of Public Law 109–59, of which $235,000,000 shall be for ''Highway Safety Programs'' under 23 U.S.C. 402; $25,000,000 shall be for ''Occupant Protection Incentive Grants'' under 23 U.S.C. 405; $48,500,000 shall be for ''Safety Belt Performance Grants'' under 23 U.S.C. 406, and such obligation limitation shall remain available until September 30, 2013 in accordance with

subsection (f) of such section 406 and shall be in addition to the amount of any limitation imposed on obligations for such grants for future fiscal years, of which up to $10,000,000 may be made available by the Secretary as grants to States that enact and enforce laws to prevent distracted driving; $34,500,000 shall be for ''State Traffic Safety Information System Improvements'' under 23 U.S.C. 408; $139,000,000 shall be for ''Alcohol-Impaired Driving Countermeasures Incentive Grant Program'' under 23 U.S.C. 410; $25,328,000 shall be for ''Administrative Expenses'' under section 2001(a)(11) of Public Law 109–59; $29,000,000 shall be for ''High Visibility Enforcement Program'' under section 2009 of Public Law 109–59; $7,000,000 shall be for ''Motorcyclist Safety'' under section 2010 of Public Law 109–59; and $7,000,000 shall be for ''Child Safety and Child Booster Seat Safety Incentive Grants'' under section 2011 of Public Law 109–59: *Provided further*, That of the funds made available for grants to States that enact and enforce laws to prevent distracted driving, up to $5,000,000 may be available for the development, production, and use of broadcast and print media advertising for distracted driving prevention: *Provided further*, That none of these funds shall be used for construction, rehabilitation, or remodeling costs, or for office furnishings and fixtures for State, local or private buildings or structures: *Provided further*, That not to exceed $500,000 of the funds made available for section 410 ''Alcohol-Impaired Driving Countermeasures Grants'' shall be available for technical assistance to the States: *Provided further*, That not to exceed $750,000 of the funds made available for the ''High Visibility Enforcement Program'' shall be available for the evaluation required under section 2009(f) of Public Law 109–59: *Provided further*, That of the amounts made available under this heading for ''Safety Belt Performance Grants'', $25,000,000 shall be available until expended for the modernization of the National Automotive Sampling System (NASS), and $5,000,000 shall be available for the development of the Driver Alcohol Detection System for Safety (DADSS), and $8,500,000 shall be available for ''State Traffic Safety Information System Improvements'' under 23 U.S.C. 408.

ADMINISTRATIVE PROVISIONS—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

SEC. 140. Notwithstanding any other provision of law or limitation on the use of funds made available under section 403 of title 23, United States Code, an additional $130,000 shall be made available to the National Highway Traffic Safety Administration, out of the amount limited for section 402 of title 23, United States Code, to pay for travel and related expenses for State management reviews and to pay for core competency development training and related expenses for highway safety staff.

SEC. 141. The limitations on obligations for the programs of the National Highway Traffic Safety Administration set in this Act shall not apply to obligations for which obligation authority was made available in previous public laws for multiple years but only to the extent that the obligation authority has not lapsed or been used.

SEC. 142. None of the funds in this Act shall be used to implement section 404 of title 23, United States Code.

FEDERAL RAILROAD ADMINISTRATION

SAFETY AND OPERATIONS

For necessary expenses of the Federal Railroad Administration, not otherwise provided for, $176,596,000, of which $12,300,000 shall remain available until expended.

RAILROAD RESEARCH AND DEVELOPMENT

For necessary expenses for railroad research and development, $30,000,000, to remain available until expended.

RAILROAD REHABILITATION AND IMPROVEMENT FINANCING PROGRAM

The Secretary of Transportation is authorized to issue to the Secretary of the Treasury notes or other obligations pursuant to section 512 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94–210), as amended, in such amounts and at such times as may be necessary to pay any amounts required pursuant to the guarantee of the principal amount of obligations under sections 511 through 513 of such Act, such authority to exist as long as any such guaranteed obligation is outstanding: *Provided*, That pursuant to section 502 of such Act, as amended, no new direct loans or loan guarantee commitments shall be made using Federal funds for the credit risk premium during fiscal year 2012.

OPERATING SUBSIDY GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

To enable the Secretary of Transportation to make quarterly grants to the National Railroad Passenger Corporation for the operation of intercity passenger rail, as authorized by section 101 of the Passenger Rail Investment and Improvement Act of 2008 (division B of Public Law 110–432), $544,000,000, to remain available until expended: *Provided*, That the amounts available under this paragraph shall be available for the Secretary to approve funding to cover operating losses for the Corporation only after receiving and reviewing a grant request for each specific train route: *Provided further*, That each such grant request shall be accompanied by a detailed financial analysis, revenue projection, and capital expenditure projection justifying the Federal support to the Secretary's satisfaction: *Provided further*, That not later than 60 days after enactment of this Act, the Corporation shall transmit, in electronic format, to the Secretary, the House and Senate Committees on Appropriations, the House Committee on Transportation and Infrastructure and the Senate Committee on Commerce, Science, and Transportation the annual budget and business plan and the 5-Year Financial Plan for fiscal year 2012 required under section 204 of the Passenger Rail Investment and Improvement Act of 2008: *Provided further*, That the budget, business plan, and the 5-Year Financial Plan shall also include a separate accounting of ridership, revenues, and capital and operating expenses for the Northeast Corridor; commuter service; long-distance Amtrak service; State-supported service; each intercity train route, including Autotrain; and commercial activities including contract operations: *Provided further*, That the budget, business plan and the 5-Year Financial Plan shall include a description of work to be funded, along with cost estimates and an estimated timetable for completion of the projects covered by these plans: *Provided further*, That the budget, business plan and the 5-Year Financial Plan shall include annual information on the maintenance, refurbishment, replacement, and expansion for all Amtrak rolling stock consistent with the comprehensive fleet plan: *Provided further*, That the Corporation shall provide semiannual reports in electronic format regarding the pending business plan, which shall describe the work completed to date, any changes to the business plan, and the reasons for such changes, and shall identify all sole-source contract awards which shall be accompanied by a justification as to why said contract was awarded on a sole-source basis: *Provided further*, That the Corporation's budget, business plan, 5-Year Financial Plan, semiannual reports, and all subsequent supplemental plans shall be displayed on the Corporation's Web site within a reasonable timeframe following their submission to the appropriate entities: *Provided further*, That none of the funds under this heading may be obligated or expended until the Corporation agrees to continue abiding by the provisions of paragraphs 1, 2, 5, 9, and 11 of the summary of conditions for the direct loan agreement of June 28, 2002, in the same manner as in effect on the date of enactment of this Act: *Provided further*, That the Corporation shall submit to the House and Senate Committees on Appropriations a budget request for fiscal year 2013 in similar format and substance to those submitted by executive agencies of the Federal Government.

CAPITAL AND DEBT SERVICE GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

To enable the Secretary of Transportation to make grants to the National Railroad Passenger Corporation for capital investments as authorized by section 101(c) and 219(b) of the Passenger Rail Investment and Improvement Act of 2008 (division B of Public Law 110–432), $936,778,000, to remain available until expended, of which not to exceed $271,000,000 shall be for debt service obligations as authorized by section 102 of such Act: *Provided*, That after an initial distribution of up to $200,000,000, which shall be used by the Corporation as a working capital account, all remaining funds shall be provided to the Corporation only on a reimbursable basis: *Provided further*, That the Secretary may retain up to one-fourth of 1 percent of the funds provided under this heading to fund the costs of project management oversight of capital projects funded by grants provided under this heading, as authorized by subsection 101(d) of division B of Public Law 110–432: *Provided further*, That the Secretary shall approve funding for capital expenditures, including advance purchase orders of materials, for the Corporation only after receiving and reviewing a grant request for each specific capital project justifying the Federal support to the Secretary's satisfaction: *Provided further*, That none of the funds under this heading may be used to subsidize operating losses of the Corporation: *Provided further*, That none of the funds under this heading may be used for capital projects not approved by the Secretary of Transportation or on the Corporation's fiscal year 2012 business plan.

CAPITAL ASSISTANCE FOR HIGH SPEED RAIL CORRIDORS AND INTERCITY PASSENGER RAIL SERVICE

To enable the Secretary of Transportation to make grants for high-speed rail projects as authorized under section 26106 of title 49, United States Code, capital investment grants to support intercity passenger rail service as authorized under section 24406 of title 49, United States Code, and congestion grants as authorized under section 24105 of title 49, United States Code, and to enter into cooperative agreements for these purposes as authorized, $100,000,000, to remain available until expended: *Provided*, That the Administrator of the Federal Railroad Administration may retain up to 2 percent of the funds provided under this heading to fund the award and oversight by the Administrator of grants and cooperative agreements for intercity and high-speed rail: *Provided further*, That funds provided under this paragraph are available to the Administrator for the purposes of conducting research and demonstrating technologies supporting the development of high-speed rail in the United States, including the demonstration of next-generation rolling stock fleet technology and the implementation of the Rail Cooperative Research Program authorized by section 24910 of title 49, United States Code: *Provided further*, That funds provided under this paragraph may be used for planning activities that lead directly to the development of a

passenger rail corridor investment plan consistent with the requirements established by the Administrator or a State rail plan consistent with chapter 227 of title 49, United States Code: *Provided further*, That funds made available for planning activities under the previous proviso may be used to facilitate the preparation of a service development plan and related environmental impact statement for high-speed corridors located in multiple States: *Provided further*, That the Federal share payable of the costs for which a grant or cooperative agreements is made under this heading shall not exceed 80 percent: *Provided further*, That in addition to the provisions of title 49, United States Code, that apply to each of the individual programs funded under this heading, subsections 24402(a)(2), 24402(f), 24402(i), and 24403(a) and (c) of title 49, United States Code, shall also apply to the provision of funds provided under this heading: *Provided further*, That a project need not be in a State rail plan developed under chapter 227 of title 49, United States Code, to be eligible for assistance under this heading: *Provided further*, That recipients of grants under this paragraph shall conduct all procurement transactions using such grant funds in a manner that provides full and open competition, as determined by the Secretary, in compliance with existing labor agreements.

ADMINISTRATIVE PROVISIONS—FEDERAL RAILROAD ADMINISTRATION

SEC. 150. Hereafter, notwithstanding any other provision of law, funds provided in this Act for the National Railroad Passenger Corporation shall immediately cease to be available to said Corporation in the event that the Corporation contracts to have services provided at or from any location outside the United States. For purposes of this section, the word ''services'' shall mean any service that was, as of July 1, 2006, performed by a full-time or part-time Amtrak employee whose base of employment is located within the United States.

SEC. 151. The Secretary of Transportation may receive and expend cash, or receive and utilize spare parts and similar items, from non-United States Government sources to repair damages to or replace United States Government owned automated track inspection cars and equipment as a result of third-party liability for such damages, and any amounts collected under this section shall be credited directly to the Railroad Safety and Operations account of the Federal Railroad Administration, and shall remain available until expended for the repair, operation and maintenance of automated track inspection cars and equipment in connection with the automated track inspection program.

SEC. 152. Notwithstanding any other provisions of law, rule or regulation, the Secretary of Transportation is authorized to allow the issuer of any preferred stock heretofore sold to the Department to redeem or repurchase such stock upon the payment to the Department of an amount determined by the Secretary.

FEDERAL TRANSIT ADMINISTRATION

ADMINISTRATIVE EXPENSES

For necessary administrative expenses of the Federal Transit Administration's programs authorized by chapter 53 of title 49, United States Code, $98,713,000: *Provided*, That none of the funds provided or limited in this Act may be used to create a permanent office of transit security under this heading: *Provided further*, That upon submission to the Congress of the fiscal year 2013 President's budget, the Secretary of Transportation shall transmit to Congress the annual report on New Starts, including proposed allocations of funds for fiscal year 2013.

FORMULA AND BUS GRANTS

(LIQUIDATION OF CONTRACT AUTHORITY)

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out the provisions of 49 U.S.C. 5305, 5307, 5308, 5309, 5310, 5311, 5316, 5317, 5320, 5335, 5339, and 5340 and section 3038 of Public Law 105–178, as amended, $9,400,000,000 to be derived from the Mass Transit Account of the Highway Trust Fund and to remain available until expended: *Provided*, That funds available for the implementation or execution of programs authorized under 49 U.S.C. 5305, 5307, 5308, 5309, 5310, 5311, 5316, 5317, 5320, 5335, 5339, and 5340 and section 3038 of Public Law 105–178, as amended, shall not exceed total obligations of $8,360,565,000 in fiscal year 2012.

RESEARCH AND UNIVERSITY RESEARCH CENTERS

For necessary expenses to carry out 49 U.S.C. 5306, 5312–5315, 5322, and 5506, $40,000,000, to remain available until expended: *Provided*, That $9,000,000 is available to carry out the transit cooperative research program under section 5313 of title 49, United States Code, $4,100,000 is available for the National Transit Institute under section 5315 of title 49, United States Code, and $6,500,000 is available for university transportation centers program under section 5506 of title 49, United States Code: *Provided further*, That $25,400,000 is available to carry out national research programs under sections 5312, 5313, 5314, and 5322 of title 49, United States Code.

CAPITAL INVESTMENT GRANTS

(INCLUDING RESCISSION AND TRANSFER OF FUNDS)

For necessary expenses to carry out section 5309 of title 49, United States Code, $1,955,000,000, to remain available until expended, of which $38,000,000 shall be available to carry out section 5309(e) of such title: *Provided*, That not less than $510,000,000 shall be available for preliminary engineering, final design, and construction of projects expected to receive a Full Funding Grant Agreements during calendar year 2012: *Provided further*, That the funds awarded for preliminary engineering and final design under such a grant shall be made available to cover those costs immediately upon grant award: *Provided further*, That of the funds appropriated under this heading in Public Law 111–8, $27,000,000 are hereby rescinded.

GRANTS FOR ENERGY EFFICIENCY AND GREENHOUSE GAS REDUCTIONS

For grants to public transit agencies for capital investments that will reduce the energy consumption or greenhouse gas emissions of their public transportation systems, $25,000,000, to remain available through September 30, 2014: *Provided*, That priority shall be given to projects that use innovative and potentially replicable approaches to reducing energy consumption or greenhouse gas emissions.

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

For grants to the Washington Metropolitan Area Transit Authority as authorized under section 601 of division B of Public Law 110–432, $150,000,000, to remain available until expended: *Provided*, That the Secretary shall approve grants for capital and preventive maintenance expenditures for the Washington Metropolitan Area Transit Authority only after receiving and reviewing a request for each specific project: *Provided further*, That prior to approving such grants, the Secretary shall determine that the Washington Metropolitan Area Transit Authority has placed the highest priority on those investments that will improve the safety of the system.

ADMINISTRATIVE PROVISIONS—FEDERAL TRANSIT ADMINISTRATION

SEC. 160. The limitations on obligations for the programs of the Federal Transit Administration shall not apply to any authority under 49 U.S.C. 5338, previously made available for obligation, or to any other authority previously made available for obligation.

SEC. 161. Notwithstanding any other provision of law, funds appropriated or limited by this Act under the Federal Transit Administration's discretionary program appropriations headings for projects specified in this Act or identified in reports accompanying this Act not obligated by September 30, 2014, and other recoveries, shall be directed to projects eligible to use the funds for the purposes for which they were originally provided.

SEC. 162. Notwithstanding any other provision of law, any funds appropriated before October 1, 2011, under any section of chapter 53 of title 49, United States Code, that remain available for expenditure, may be transferred to and administered under the most recent appropriation heading for any such section.

SEC. 163. Notwithstanding any other provision of law, unobligated funds made available for new fixed guideway system projects under the heading ''Federal Transit Administration, Capital Investment Grants'' in any appropriations Act prior to this Act may be used during this fiscal year to satisfy expenses incurred for such projects.

SEC. 164. In addition to the amounts made available under section 5327(c)(1) of title 49, United States Code, the Secretary may use, for program management activities described in section 5327(c)(2), 1 percent of the amount made available to carry out section 5316 of title 49, United States Code: *Provided*, That funds made available for program management oversight shall be used to oversee the compliance of a recipient or subrecipient of Federal transit assistance consistent with activities identified under section 5327(c)(2) and for purposes of enforcement.

SEC. 165. (a) Notwithstanding any other provision of law, unobligated funds or recoveries under section 5309 of title 49, United States Code, that are available to the Secretary of Transportation for reallocation shall be directed to projects eligible to use the funds for the purposes for which they were originally provided.

SEC. 166. Funds made available for Alaska or Hawaii ferry boats or ferry terminal facilities pursuant to 49 U.S.C. 5309(m)(6)(B) may be used to construct new vessels and facilities, or to improve existing vessels and facilities, including both the passenger and vehicle-related elements of such vessels and facilities, and for repair facilities.

SEC. 167. Hereafter, the Secretary may not enforce regulations related to charter bus service under part 604 of title 49, Code of Federal Regulations, for any transit agency who during fiscal year 2008 was both initially granted a 60-day period to come into compliance with part 604, and then was subsequently granted an exception from said part.

SEC. 168. Hereafter, for purposes of applying the project justification and local financial commitment criteria of 49 U.S.C. 5309(d) to a New Starts project, the Secretary may consider the costs and ridership of any connected project in an instance in which private parties are making significant financial contributions to the construction of the connected project; additionally, the Secretary may consider the significant financial contributions of private parties to the connected project in calculating the non-Federal share of net capital project costs for the New Starts project.

SEC. 169. Hereafter, all bus new fixed guideway capital projects recommended in the

President's fiscal year 2012 budget request for funds appropriated under the Capital Investment Grants heading in this Act or any other Act shall be funded instead from amounts allocated under 49 U.S.C. 5309(m)(2)(C): *Provided*, That all such projects shall remain subject to the appropriate requirements of 49 U.S.C. 5309(d) and (e).

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

The Saint Lawrence Seaway Development Corporation is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to the Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the Corporation's budget for the current fiscal year.

OPERATIONS AND MAINTENANCE

(HARBOR MAINTENANCE TRUST FUND)

For necessary expenses for operations, maintenance, and capital asset renewal of those portions of the St. Lawrence Seaway owned, operated, and maintained by the Saint Lawrence Seaway Development Corporation, $34,000,000, to be derived from the Harbor Maintenance Trust Fund, pursuant to Public Law 99–662.

MARITIME ADMINISTRATION

MARITIME SECURITY PROGRAM

For necessary expenses to maintain and preserve a U.S.-flag merchant fleet to serve the national security needs of the United States, $174,000,000, to remain available until expended.

OPERATIONS AND TRAINING

(INCLUDING RESCISSION)

For necessary expenses of operations and training activities authorized by law, $154,886,000, of which $11,100,000 shall remain available until expended for maintenance and repair of training ships at State Maritime Academies, and of which $2,400,000 shall remain available through September 30, 2013 for Student Incentive Program payments at State Maritime Academies, and of which $22,485,000 shall remain available until expended for facilities maintenance and repair, equipment, and capital improvements at the United State Merchant Marine Academy: *Provided*, That amounts apportioned for the United States Merchant Marine Academy shall be available only upon allotments made personally by the Secretary of Transportation or the Assistant Secretary for Budget and Programs: *Provided further*, That the Superintendent, Deputy Superintendent and the Director of the Office of Resource Management of the United State Merchant Marine Academy may not be allotment holders for the United States Merchant Marine Academy, and the Administrator of the Maritime Administration shall hold all allotments made by the Secretary of Transportation or the Assistant Secretary for Budget and Programs under the previous proviso: *Provided further*, That 50 percent of the funding made available for the United States Merchant Marine Academy under this heading shall be available only after the Secretary, in consultation with the Superintendent and the Maritime Administrator, completes a plan detailing by program or activity how such funding will be expended at the Academy, and this plan is submitted to the House and Senate Committees on Appropriations: *Provided further*, That of the prior year unobligated balances under this heading for information technology requirements of Public Law 111–207, $1,000,000 are permanently rescinded.

SHIP DISPOSAL

For necessary expenses related to the disposal of obsolete vessels in the National Defense Reserve Fleet of the Maritime Administration, $10,000,000, to remain available until expended.

ASSISTANCE TO SMALL SHIPYARDS

To make grants to qualified shipyards as authorized under section 3508 of Public Law 110–417 or section 54101 of title 46, United States Code, $10,000,000, to remain available until expended: *Provided*, That to be considered for assistance, a qualified shipyard shall submit an application for assistance no later than 60 days after enactment of this Act: *Provided further*, That from applications submitted under the previous proviso, the Secretary of Transportation shall make grants no later than 120 days after enactment of this Act in such amounts as the Secretary determines.

MARITIME GUARANTEED LOAN (TITLE XI) PROGRAM ACCOUNT

(INCLUDING RESCISSION AND TRANSFER OF FUNDS)

For the necessary administrative expenses of the maritime guaranteed loan program, $4,000,000 shall be paid to the appropriation for ''Operations and Training'', Maritime Administration: *Provided*, That of the unobligated balance of funds made available for obligation under Public Law 110–329 and Public Law 111–118, $35,000,000 are permanently rescinded.

ADMINISTRATIVE PROVISIONS—MARITIME ADMINISTRATION

SEC. 170. Notwithstanding any other provision of this Act, the Maritime Administration is authorized to furnish utilities and services and make necessary repairs in connection with any lease, contract, or occupancy involving Government property under control of the Maritime Administration, and payments received therefor shall be credited to the appropriation charged with the cost thereof: *Provided*, That rental payments under any such lease, contract, or occupancy for items other than such utilities, services, or repairs shall be covered into the Treasury as miscellaneous receipts.

SEC. 171. Notwithstanding any other provision of law, none of the funds provided in this or any other Act shall hereafter be used to make a determination of the nonavailability of qualified United States flag capacity for purposes of 46 U.S.C. 501(b) for the transportation of crude oil distributed from the Strategic Petroleum Reserve unless as part of that determination the Secretary of Transportation, after consultation with representatives from the United States flag maritime industry, provides to the Secretary of Homeland Security a list of United States flag vessels with single or collective capacity that may be capable of providing the requested transportation services and a written justification for not using such United States flag vessels.

PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION

OPERATIONAL EXPENSES

(PIPELINE SAFETY FUND)

(INCLUDING TRANSFER OF FUNDS)

For necessary operational expenses of the Pipeline and Hazardous Materials Safety Administration, $22,158,000, of which $639,000 shall be derived from the Pipeline Safety Fund: *Provided*, That $1,000,000 shall be transferred to ''Pipeline Safety'' in order to fund ''Pipeline Safety Information Grants to Communities'' as authorized under section 60130 of title 49, United States Code.

HAZARDOUS MATERIALS SAFETY

For expenses necessary to discharge the hazardous materials safety functions of the Pipeline and Hazardous Materials Safety Administration, $39,020,000, of which $1,716,000 shall remain available until September 30, 2014: *Provided*, That up to $800,000 in fees collected under 49 U.S.C. 5108(g) shall be deposited in the general fund of the Treasury as offsetting receipts: *Provided further*, That there may be credited to this appropriation, to be available until expended, funds received from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training, for reports publication and dissemination, and for travel incurred in performance of hazardous materials exemptions and approvals functions.

PIPELINE SAFETY

(PIPELINE SAFETY FUND)

(OIL SPILL LIABILITY TRUST FUND)

For expenses necessary to conduct the functions of the pipeline safety program, for grants-in-aid to carry out a pipeline safety program, as authorized by 49 U.S.C. 60107, and to discharge the pipeline program responsibilities of the Oil Pollution Act of 1990, $118,364,000, of which $21,510,000 shall be derived from the Oil Spill Liability Trust Fund and shall remain available until September 30, 2014; of which $93,854,000 shall be derived from the Pipeline Safety Fund, of which $54,265,000 shall remain available until September 30, 2014; of which $3,000,000, to remain available until expended, shall be derived from the Pipeline Safety Design Review Fund, as established by this Act.

EMERGENCY PREPAREDNESS GRANTS

(EMERGENCY PREPAREDNESS FUND)

For necessary expenses to carry out 49 U.S.C. 5128(b), $188,000, to be derived from the Emergency Preparedness Fund, to remain available until September 30, 2013: *Provided*, That not more than $28,318,000 shall be made available for obligation in fiscal year 2012 from amounts made available by 49 U.S.C. 5116(i) and 5128(b)–(c): *Provided further*, That none of the funds made available by 49 U.S.C. 5116(i), 5128(b), or 5128(c) shall be made available for obligation by individuals other than the Secretary of Transportation, or his designee: *Provided further*, That unobligated balances of funds provided under this paragraph not needed for fiscal year 2012 from the sum made available herein shall remain available until expended to invest in the data management and information technology modernization efforts, including related equipment and non-payroll administrative expenses associated solely with this information technology and telecommunications infrastructure.

ADMINISTRATIVE PROVISION—PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION

COST RECOVERY FOR DESIGN REVIEWS

SEC. 180. Section 60117(n) of title 49, United States Code, is amended to read as follows:

''(n) COST RECOVERY FOR DESIGN REVIEWS.—

''(1) IN GENERAL.—If the Secretary conducts facility design safety reviews in connection with a proposal to construct, expand, or operate a gas or hazardous liquid pipeline or liquefied natural gas pipeline facility, including construction inspections and oversight, the Secretary may require the person or entity proposing the project to pay the costs incurred by the Secretary relating to such reviews. If the Secretary exercises the cost recovery authority described in this section, the Secretary shall prescribe a fee structure and assessment methodology that is based on the costs of providing these reviews and shall prescribe procedures to collect fees under this section. This authority is in addition to the authority provided in section 60301 of this title.

''(2) NOTIFICATION.—For any new pipeline construction project in which the Secretary will conduct design reviews, the person or entity proposing the project shall notify the Secretary and provide design specifications, construction plans and procedures, and related materials at least 120 days prior to the commencement of construction.

''(3) DEPOSIT AND USE.—The Secretary shall deposit funds paid under this subsection into the Pipeline Safety Design Review Fund. Funds deposited under this section are authorized to be appropriated for the purposes set forth in this chapter. Fees authorized under this section shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriations acts.''.

RESEARCH AND INNOVATIVE TECHNOLOGY ADMINISTRATION

RESEARCH AND DEVELOPMENT

For necessary expenses of the Research and Innovative Technology Administration, $15,981,000, of which $9,007,000 shall remain available until September 30, 2014: *Provided*, That there may be credited to this appropriation, to be available until expended, funds received from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General to carry out the provisions of the Inspector General Act of 1978, as amended, $82,409,000: *Provided*, That the Inspector General shall have all necessary authority, in carrying out the duties specified in the Inspector General Act, as amended (5 U.S.C. App. 3), to investigate allegations of fraud, including false statements to the government (18 U.S.C. 1001), by any person or entity that is subject to regulation by the Department: *Provided further*, That the funds made available under this heading may be used to investigate, pursuant to section 41712 of title 49, United States Code:

(1) unfair or deceptive practices and unfair methods of competition by domestic and foreign air carriers and ticket agents; and

(2) the compliance of domestic and foreign air carriers with respect to item (1) of this proviso.

SURFACE TRANSPORTATION BOARD

SALARIES AND EXPENSES

For necessary expenses of the Surface Transportation Board, including services authorized by 5 U.S.C. 3109, $29,310,000: *Provided*, That notwithstanding any other provision of law, not to exceed $1,250,000 from fees established by the Chairman of the Surface Transportation Board shall be credited to this appropriation as offsetting collections and used for necessary and authorized expenses under this heading: *Provided further*, That the sum herein appropriated from the general fund shall be reduced on a dollar-for-dollar basis as such offsetting collections are received during fiscal year 2012, to result in a final appropriation from the general fund estimated at no more than $28,060,000.

GENERAL PROVISIONS—DEPARTMENT OF TRANSPORTATION

SEC. 190. During the current fiscal year, applicable appropriations to the Department of Transportation shall be available for maintenance and operation of aircraft; hire of passenger motor vehicles and aircraft; purchase of liability insurance for motor vehicles operating in foreign countries on official department business; and uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902).

SEC. 191. Appropriations contained in this Act for the Department of Transportation shall be available for services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for an Executive Level IV.

SEC. 192. None of the funds in this Act shall be available for salaries and expenses of more than 110 political and Presidential appointees in the Department of Transportation: *Provided*, That none of the personnel covered by this provision may be assigned on temporary detail outside the Department of Transportation.

SEC. 193. Funds received by the Federal Highway Administration, Federal Transit Administration, and Federal Railroad Administration from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training may be credited respectively to the Federal Highway Administration's ''Federal-Aid Highways'' account, the Federal Transit Administration's ''Research and University Research Centers'' account, and to the Federal Railroad Administration's ''Safety and Operations'' account, except for State rail safety inspectors participating in training pursuant to 49 U.S.C. 20105.

SEC. 194. None of the funds in this Act to the Department of Transportation may be used to make a grant unless the Secretary of Transportation notifies the House and Senate Committees on Appropriations not less than 3 full business days before any project competitively selected to receive a discretionary grant award, any discretionary grant award, letter of intent, or full funding grant agreement totaling $1,000,000 or more is announced by the department or its modal administrations from:

(1) any discretionary grant program of the Federal Highway Administration including the emergency relief program;

(2) the airport improvement program of the Federal Aviation Administration;

(3) any program of the Federal Railroad Administration;

(4) any program of the Federal Transit Administration other than the formula grants and fixed guideway modernization programs; or

(5) any funding provided under the headings ''National Infrastructure Investments'' and ''Assistance to Small Shipyards'' in this Act: *Provided*, That the Secretary gives concurrent notification to the House and Senate Committees on Appropriations for any ''quick release'' of funds from the emergency relief program: *Provided further*, That no notification shall involve funds that are not available for obligation.

SEC. 195. Rebates, refunds, incentive payments, minor fees and other funds received by the Department of Transportation from travel management centers, charge card programs, the subleasing of building space, and miscellaneous sources are to be credited to appropriations of the Department of Transportation and allocated to elements of the Department of Transportation using fair and equitable criteria and such funds shall be available until expended.

SEC. 196. Amounts made available in this or any other Act that the Secretary determines represent improper payments by the Department of Transportation to a third-party contractor under a financial assistance award, which are recovered pursuant to law, shall be available—

(1) to reimburse the actual expenses incurred by the Department of Transportation in recovering improper payments; and

(2) to pay contractors for services provided in recovering improper payments or contractor support in the implementation of the Improper Payments Information Act of 2002: *Provided*, That amounts in excess of that required for paragraphs (1) and (2)—

(A) shall be credited to and merged with the appropriation from which the improper payments were made, and shall be available for the purposes and period for which such appropriations are available; or

(B) if no such appropriation remains available, shall be deposited in the Treasury as miscellaneous receipts: *Provided further*, That prior to the transfer of any such recovery to an appropriations account, the Secretary shall notify to the House and Senate Committees on Appropriations of the amount and reasons for such transfer: *Provided further*, That for purposes of this section, the term ''improper payments'', has the same meaning as that provided in section 2(d)(2) of Public Law 107–300.

SEC. 197. Notwithstanding any other provision of law, if any funds provided in or limited by this Act are subject to a reprogramming action that requires notice to be provided to the House and Senate Committees on Appropriations, said reprogramming action shall be approved or denied solely by the Committees on Appropriations: *Provided*, That the Secretary may provide notice to other congressional committees of the action of the Committees on Appropriations on such reprogramming but not sooner than 30 days following the date on which the reprogramming action has been approved or denied by the House and Senate Committees on Appropriations.

SEC. 198. None of the funds appropriated or otherwise made available under this Act may be used by the Surface Transportation Board of the Department of Transportation to charge or collect any filing fee for rate or practice complaints filed with the Board in an amount in excess of the amount authorized for district court civil suit filing fees under section 1914 of title 28, United States Code.

This title may be cited as the Department of Transportation Appropriations Act, 2012.

TITLE II

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

MANAGEMENT AND ADMINISTRATION

ADMINISTRATION, OPERATIONS, AND MANAGEMENT

For necessary salaries and expenses for administration, management and operations of the Department of Housing and Urban Development, $549,499,000, of which not to exceed $4,610,000 shall be available for the immediate Office of the Secretary and Deputy Secretary; not to exceed $1,700,000 shall be available for the Office of Hearings and Appeals; not to exceed $741,000 shall be available for the Office of Small and Disadvantaged Business Utilization; not to exceed $47,984,000 shall be available for the Office of the Chief Financial Officer; not to exceed $94,380,000 shall be available for the Office of the General Counsel; not to exceed $2,695,000 shall be available to the Office of Congressional and Intergovernmental Relations; not to exceed $3,988,000 shall be available for the Office of Public Affairs; not to exceed $546,000 shall be available to the Office of the Chief Operating Officer, not to exceed $256,744,000 shall be available for the Office of the Chief Human Capital Officer; not to exceed $10,476,000 shall be available for the Office of Departmental Operations and Coordination; not to exceed $47,543,000 shall be available for the Office of Field Policy and Management; not to exceed $14,654,000 shall be available for the Office of the Chief Procurement Officer; not to exceed $3,708,000 shall be available for the Office of Departmental Equal Employment Opportunity; not to exceed $1,448,000 shall be available for the Center for Faith-Based and Community Initiatives; not to exceed $2,627,000 shall be available for the Office of Sustainable Housing and Communities; not to exceed $5,605,000 shall be available for the Office of Strategic Planning and

Management; not to exceed $7,415,000 shall be available for the Office of the Chief Disaster and Emergency Management Officer; and not to exceed $42,635,000 shall be available for the Office of the Chief Information Officer: *Provided further*, That the Secretary shall provide the Committees on Appropriations quarterly written notification regarding the status of pending congressional reports: *Provided further*, That the Secretary shall provide all signed reports required by Congress electronically: *Provided further*, That not to exceed $25,000 of the amount made available under this paragraph for the immediate Office of the Secretary shall be available for official reception and representation expenses as the Secretary may determine.

PROGRAM OFFICE SALARIES AND EXPENSES

PUBLIC AND INDIAN HOUSING

For necessary salaries and expenses of the Office of Public and Indian Housing, $201,233,000.

COMMUNITY PLANNING AND DEVELOPMENT

For necessary salaries and expenses of the Office of Community Planning and Development mission area, $101,076,000.

HOUSING

For necessary salaries and expenses of the Office of Housing, $392,796,000, of which $8,200,000 shall be for the Office of Risk and Regulatory Affairs.

POLICY DEVELOPMENT AND RESEARCH

For necessary salaries and expenses of the Office of Policy Development and Research, $23,016,000.

FAIR HOUSING AND EQUAL OPPORTUNITY

For necessary salaries and expenses of the Office of Fair Housing and Equal Opportunity, $74,766,000.

OFFICE OF HEALTHY HOMES AND LEAD HAZARD CONTROL

For necessary salaries and expenses of the Office of Healthy Homes and Lead Hazard Control, $7,502,000.

RENTAL ASSISTANCE DEMONSTRATION

To conduct a demonstration designed to preserve and improve public housing through the voluntary conversion of properties with assistance under section 9 of the U.S. Housing Act of 1937, (hereinafter, ''the Act''), to properties with assistance under a project-based subsidy contract under section 8 of the Act, which shall be eligible for renewal under section 524 of the Multifamily Assisted Housing Reform and Affordability Act of 1997, or assistance under section 8(o)(13) of the Act, the Secretary may transfer amounts provided under the headings ''Public Housing Capital Fund'' and ''Public Housing Operating Fund'' to the headings ''Tenant-Based Rental Assistance'' or ''Project-Based Rental Assistance'': *Provided*, That project applications may be received under this demonstration until September 30, 2015: *Provided further*, That any increase in cost for ''Tenant-Based Rental Assistance'' or ''Project-Based Rental Assistance'' associated with such conversion shall be equal to amounts transferred from ''Public Housing Capital Fund'' and ''Public Housing Operating Fund'': *Provided further*, That not more than 60,000 units shall be converted under the authority provided under this heading: *Provided further*, That tenants of such converted properties shall, at a minimum, maintain the same rights under such conversion as those provided under section 9 of the Act: *Provided further*, That the Secretary shall select properties from applications for conversion as part of this demonstration through a competitive process: *Provided further*, That in establishing criteria for such competition, the Secretary shall seek to demonstrate the feasibility of this conversion model to recapitalize and operate public housing properties (1) in different markets and geographic areas, (2) within portfolios managed by public housing agencies of varying sizes, and (3) by leveraging other sources of funding to recapitalize properties: *Provided further*, That the Secretary shall provide an opportunity for public comment on draft eligibility and selection criteria and procedures that will apply to the selection of properties that will participate in the demonstration: *Provided further*, That the Secretary shall provide an opportunity for comment from residents of properties to be proposed for participation in the demonstration to the owners or public housing agencies responsible for such properties: *Provided further*, That the Secretary may waive or specify alternative requirements for (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment) any provision of section 8(o)(13) or any provision that governs the use of assistance from which a property is converted under the demonstration or funds made available under the headings of ''Public Housing Capital Fund'', ''Public Housing Operating Fund'', and ''Project-Based Rental Assistance'', under this Act or any prior Act or any Act enacted during the period of conversion of assistance under the demonstration for properties with assistance converted under the demonstration, upon a finding by the Secretary that any such waivers or alternative requirements are necessary for the effective conversion of assistance under the demonstration: *Provided further*, That the Secretary shall publish by notice in the Federal Register any waivers or alternative requirements pursuant to the previous proviso no later than 10 days before the effective date of such notice: *Provided further*, That the demonstration may proceed after the Secretary publishes notice of its terms in the Federal Register: *Provided further*, That notwithstanding sections 3 and 16 of the Act, the conversion of assistance under the demonstration shall not be the basis for re-screening or termination of assistance or eviction of any tenant family in a property participating in the demonstration, and such a family shall not be considered a new admission for any purpose, including compliance with income targeting requirements: *Provided further*, That in the case of a property with assistance converted under the demonstration from assistance under section 9 of the Act, section 18 of the Act shall not apply to a property converting assistance under the demonstration for all or substantially all of its units, the Secretary shall require ownership or control of assisted units by a public or nonprofit entity except as determined by the Secretary to be necessary pursuant to foreclosure, bankruptcy, or termination and transfer of assistance for material violations or substantial default, shall require long-term renewable use and affordability restrictions for assisted units, and may allow ownership to be transferred to a for-profit entity to facilitate the use of tax credits only if the public housing agency preserves its interest in the property in a manner approved by the Secretary: *Provided further*, That the Secretary may permit transfer of assistance at or after conversion under the demonstration to replacement units subject to the requirements in the previous proviso: *Provided further*, That the Secretary may establish the requirements for converted assistance under the demonstration through contracts, use agreements, regulations, or other means: *Provided further*, That the Secretary shall assess and publish findings regarding the impact of the conversion of assistance under the demonstration on the preservation and improvement of public housing, the amount of private sector leveraging as a result of such conversion, and the effect of such conversion on tenants.

PUBLIC AND INDIAN HOUSING

TENANT-BASED RENTAL ASSISTANCE

(INCLUDING TRANSFER OF FUNDS)

For activities and assistance for the provision of tenant-based rental assistance authorized under the United States Housing Act of 1937, as amended (42 U.S.C. 1437 et seq.) (''the Act'' herein), not otherwise provided for, $14,872,357,000, to remain available until expended, shall be available on October 1, 2011 (in addition to the $4,000,000,000 previously appropriated under this heading that will become available on October 1, 2011), and $4,000,000,000, to remain available until expended, shall be available on October 1, 2012: *Provided*, That of the amounts made available under this heading are provided as follows:

(1) Not less than $17,143,905,000 shall be available for renewals of expiring section 8 tenant-based annual contributions contracts (including renewals of enhanced vouchers under any provision of law authorizing such assistance under section 8(t) of the Act) and including renewal of other special purpose incremental vouchers: *Provided*, That notwithstanding any other provision of law, from amounts provided under this paragraph and any carryover, the Secretary for the calendar year 2012 funding cycle shall provide renewal funding for each public housing agency based on validated voucher management system (VMS) leasing and cost data for the prior calendar year and by applying an inflation factor as established by the Secretary, by notice published in the Federal Register, and by making any necessary adjustments for the costs associated with the first-time renewal of vouchers under this paragraph including tenant protection and HOPE VI vouchers: *Provided further*, That none of the funds provided under this paragraph may be used to fund a total number of unit months under lease which exceeds a public housing agency's authorized level of units under contract, except for public housing agencies participating in the Moving to Work (MTW) demonstration, which are instead governed by the terms and conditions of their MTW agreements: *Provided further*, That the Secretary shall, to the extent necessary to stay within the amount specified under this paragraph (except as otherwise modified under this Act), pro rate each public housing agency's allocation otherwise established pursuant to this paragraph: *Provided further*, That except as provided in the following provisos, the entire amount specified under this paragraph (except as otherwise modified under this Act) shall be obligated to the public housing agencies based on the allocation and pro rata method described above, and the Secretary shall notify public housing agencies of their annual budget not later than 60 days after enactment of this Act: *Provided further*, That the Secretary may extend the 60-day notification period with the prior written approval of the House and Senate Committees on Appropriations: *Provided further*, That public housing agencies participating in the Moving to Work demonstration shall be funded pursuant to their Moving to Work agreements and shall be subject to the same pro rata adjustments under the previous provisos: *Provided further*, That up to $103,000,000 shall be available only: (1) to adjust the allocations for public housing agencies, after application for an adjustment by a public housing agency that experienced a significant increase, as determined by the Secretary, in renewal costs of tenant-based rental assistance resulting from unforeseen circumstances or from portability under section 8(r) of the Act; (2) for vouchers that were not in use during the 12-month period in order to be available to meet a commitment pursuant to section

8(o)(13) of the Act; (3) for adjustments for costs associated with HUD-Veterans Affairs Supportive Housing (HUD–VASH) vouchers; and (4) for incremental tenant-based assistance for eligible families currently assisted under the Disaster Voucher Program as authorized by Public Law 109–148 under this heading and the Disaster Housing Assistance Program for Hurricanes Ike and Gustav on the condition that such vouchers will not be re-issued when families leave the program: *Provided further*, That of the amounts made available under this paragraph, up to $15,000,000 may be transferred to and merged with the appropriation for ''Transformation Initiative'';

(2) $75,000,000 shall be for section 8 rental assistance for relocation and replacement of housing units that are demolished or disposed of pursuant to section 18 of the Act, conversion of section 23 projects to assistance under section 8, the family unification program under section 8(x) of the Act, relocation of witnesses in connection with efforts to combat crime in public and assisted housing pursuant to a request from a law enforcement or prosecution agency, enhanced vouchers under any provision of law authorizing such assistance under section 8(t) of the Act, HOPE VI vouchers, mandatory and voluntary conversions, and tenant protection assistance including replacement and relocation assistance or for project-based assistance to prevent the displacement of unassisted elderly tenants currently residing in section 202 properties financed between 1959 and 1974 that are refinanced pursuant to Public Law 106–569, as amended, or under the authority as provided under this Act: *Provided*, That when a public housing development is submitted for demolition or disposition under section 18 of the Act, the Secretary may provide section 8 rental assistance when the units pose an imminent health and safety risk to residents: *Provided further*, That the Secretary may only provide replacement vouchers for units that were occupied within the previous 24 months that cease to be available as assisted housing, subject only to the availability of funds: *Provided further*, That of the amounts made available under this paragraph, $10,000,000 shall be available to provide tenant protection assistance, not otherwise provided under this paragraph, to residents residing in low-vacancy areas and who may have to pay rents greater than 30 percent of household income, as the result of (1) the maturity of a HUD-insured, HUD-held or section 202 loan that requires the permission of the Secretary prior to loan prepayment; (2) the expiration of a rental assistance contract for which the tenants are not eligible for enhanced voucher or tenant protection assistance under existing law; or (3) the expiration of affordability restrictions accompanying a mortgage or preservation program administered by the Secretary: *Provided further*, That such tenant protection assistance made available under the previous proviso may be provided under the authority of section 8(t) or section 8(o)(13) of the United States Housing Act of 1937 (42 U.S.C. 1437f(t)): *Provided further*, That the Secretary shall issue guidance to implement the previous provisos, including, but not limited to, requirements for defining eligible at-risk households within 120 days of the enactment of this Act;

(3) $1,400,000,000 shall be for administrative and other expenses of public housing agencies in administering the section 8 tenant-based rental assistance program, of which up to $50,000,000 shall be available to the Secretary to allocate to public housing agencies that need additional funds to administer their section 8 programs, including fees associated with section 8 tenant protection rental assistance, the administration of disaster related vouchers, Veterans Affairs Supportive Housing vouchers, and other incremental vouchers: *Provided*, That no less than $1,350,000,000 of the amount provided in this paragraph shall be allocated to public housing agencies for the calendar year 2012 funding cycle based on section 8(q) of the Act (and related Appropriation Act provisions) as in effect immediately before the enactment of the Quality Housing and Work Responsibility Act of 1998 (Public Law 105–276): *Provided further*, That if the amounts made available under this paragraph are insufficient to pay the amounts determined under the previous proviso, the Secretary may decrease the amounts allocated to agencies by a uniform percentage applicable to all agencies receiving funding under this paragraph or may, to the extent necessary to provide full payment of amounts determined under the previous proviso, utilize unobligated balances, including recaptures and carryovers, remaining from funds appropriated to the Department of Housing and Urban Development under this heading from prior fiscal years, notwithstanding the purposes for which such amounts were appropriated: *Provided further*, That amounts provided under this paragraph shall be only for activities related to the provision of tenant-based rental assistance authorized under section 8, including related development activities;

(4) $60,000,000 shall be available for family self-sufficiency coordinators under section 23 of the Act;

(5) $113,452,000 for the renewal of tenant-based assistance contracts under section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013), including necessary administrative expenses;

(6) $75,000,000 for incremental rental voucher assistance for use through a supported housing program administered in conjunction with the Department of Veterans Affairs as authorized under section 8(o)(19) of the United States Housing Act of 1937: *Provided*, That the Secretary of Housing and Urban Development shall make such funding available, notwithstanding section 204 (competition provision) of this title, to public housing agencies that partner with eligible VA Medical Centers or other entities as designated by the Secretary of the Department of Veterans Affairs, based on geographical need for such assistance as identified by the Secretary of the Department of Veterans Affairs, public housing agency administrative performance, and other factors as specified by the Secretary of Housing and Urban Development in consultation with the Secretary of the Department of Veterans Affairs: *Provided further*, That the Secretary of Housing and Urban Development may waive, or specify alternative requirements for (in consultation with the Secretary of the Department of Veterans Affairs), any provision of any statute or regulation that the Secretary of Housing and Urban Development administers in connection with the use of funds made available under this paragraph (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment), upon a finding by the Secretary that any such waivers or alternative requirements are necessary for the effective delivery and administration of such voucher assistance: *Provided further*, That assistance made available under this paragraph shall continue to remain available for homeless veterans upon turn-over;

(7) $5,000,000 for payments to public housing authorities to be competitively awarded in order to demonstrate the effectiveness of leveraging mainstream resources to address the needs of families and individuals who are homeless or at risk of homelessness, as defined by the Secretary of Housing and Urban Development, to be administered by the Secretary in conjunction with the Department of Health and Human Services and the Department of Education: *Provided*, That funds provided under this paragraph shall be awarded to public housing authorities that (1) partner with eligible State and local entities responsible for distributing Temporary Assistance for Needy Families (TANF) and other health and human services, as designated by the Secretary of the Department of Health and Human Services, and (2) partner with school homelessness liaisons funded through the Department of Education's Education for Homeless Children and Youth Program: *Provided further*, That the funds may also be available to public housing authorities that partner with eligible State Medicaid agencies and State behavioral health entities, as designated by the Secretary of the Department of Health and Human Services, to provide housing in conjunction with Medicaid case management, substance abuse treatment, and mental health services; and

(8) The Secretary shall separately track all special purpose vouchers funded under this heading.

HOUSING CERTIFICATE FUND

(RESCISSION)

Of the unobligated balances, including recaptures and carryover, remaining from funds appropriated to the Department of Housing and Urban Development under this heading, $200,000,000 are rescinded, to be effected by the Secretary of Housing and Urban Development no later than September 30, 2012: *Provided*, That if insufficient funds exist under these headings, the remaining balance may be derived from any other unobligated balances available under any heading under this title funded in fiscal year 2011 and prior years: *Provided further*, That the Secretary shall notify the Committees on Appropriations of the unobligated balances used to meet this rescission 30 days in advance of such rescission: *Provided further*, That any such balances governed by reallocation provisions under the statute authorizing the program for which the funds were originally appropriated shall be available for the rescission: *Provided further*, That any obligated balances of contract authority from fiscal year 1974 and prior that have been terminated shall be cancelled.

PUBLIC HOUSING CAPITAL FUND

For the Public Housing Capital Fund Program to carry out capital and management activities for public housing agencies, as authorized under section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437g) (the ''Act'') $1,875,000,000, to remain available until September 30, 2015: *Provided*, That notwithstanding any other provision of law or regulation, during fiscal year 2012 the Secretary of Housing and Urban Development may not delegate to any Department official other than the Deputy Secretary and the Assistant Secretary for Public and Indian Housing any authority under paragraph (2) of section 9(j) regarding the extension of the time periods under such section: *Provided further*, That for purposes of such section 9(j), the term ''obligate'' means, with respect to amounts, that the amounts are subject to a binding agreement that will result in outlays, immediately or in the future: *Provided further*, That up to $10,000,000 shall be to support the ongoing Public Housing Financial and Physical Assessment activities of the Real Estate Assessment Center (REAC): *Provided further*, That of the total amount provided under this heading, not to exceed $20,000,000 shall be available for the Secretary to make grants, notwithstanding section 204 of this Act, to public housing agencies for emergency capital needs including safety and security measures necessary to

address crime and drug-related activity as well as needs resulting from unforeseen or unpreventable emergencies and natural disasters excluding Presidentially declared emergencies and natural disasters under the Robert T. Stafford Disaster Relief and Emergency Act (42 U.S.C. 5121 et seq.) occurring in fiscal year 2012: *Provided further*, That of the total amount provided under this heading $50,000,000 shall be for supportive services, service coordinator and congregate services as authorized by section 34 of the Act (42 U.S.C. 1437z–6) and the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.): *Provided further*, That of the total amount provided under this heading, up to $5,000,000 is to support the costs of administrative and judicial receiverships: *Provided further*, That from the funds made available under this heading, the Secretary shall provide bonus awards in fiscal year 2012 to public housing agencies that are designated high performers.

PUBLIC HOUSING OPERATING FUND

For 2012 payments to public housing agencies for the operation and management of public housing, as authorized by section 9(e) of the United States Housing Act of 1937 (42 U.S.C. 1437g(e)), $3,961,850,000, of which $20,000,000 shall be available until September 30, 2013: *Provided*, That in determining public housing agencies', including Moving to Work agencies', calendar year 2012 funding allocations under this heading, the Secretary shall take into account public housing agencies' excess operating fund reserves, as determined by the Secretary: *Provided further*, That Moving to Work agencies shall receive a pro-rata reduction consistent with their peer groups: *Provided further*, That no public housing agency shall be left with less than $100,000 in operating reserves: *Provided further*, That the Secretary shall not offset excess reserves by more than $750,000,000: *Provided further*, That in implementing such allocation reductions, the Secretary shall establish a process by which public housing agencies can appeal the initial allocation amounts and the Secretary shall consider adjustments based on such factors, including prior funding reservations, commitments related to mixed finance developments, or reporting errors: *Provided further*, That the Secretary shall notify public housing agencies of such process and what documentation may be required as part of such appeal: *Provided further*, That following the appeals process established under the previous two provisos, the Secretary shall make final allocations: *Provided further*, That of the amount provided under this heading up to $20,000,000 may be set aside to provide assistance to any public housing authority who encounters financial hardship as a direct result of an excess reserve offset applied to an allocation of funding under this heading: *Provided further*, That the Secretary shall provide flexibility to public housing agencies to use excess operating reserves for capital improvements.

CHOICE NEIGHBORHOODS

For competitive grants under the Choice Neighborhoods Initiative (subject to section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v), unless otherwise specified under this heading), for transformation, rehabilitation, and replacement housing needs of both public and HUD-assisted housing and to transform neighborhoods of poverty into functioning, sustainable mixed income neighborhoods with appropriate services, schools, public assets, transportation and access to jobs, $120,000,000, to remain available until September 30, 2014: *Provided*, That grant funds may be used for resident and community services, community development, and affordable housing needs in the community, and for conversion of vacant or foreclosed properties to affordable housing: *Provided further*, That grantees shall undertake comprehensive local planning with input from residents and the community, and that grantees shall provide a match in State, local, other Federal or private funds: *Provided further*, That grantees may include local governments, tribal entities, public housing authorities, and nonprofits: *Provided further*, That for-profit developers may apply jointly with a public entity: *Provided further*, That of the amount provided, not less than $80,000,000 shall be awarded to public housing authorities: *Provided further*, That such grantees shall create partnerships with other local organizations including assisted housing owners, service agencies, and resident organizations: *Provided further*, That the Secretary shall consult with the Secretaries of Education, Labor, Transportation, Health and Human Services, Agriculture, and Commerce and the Administrator of the Environmental Protection Agency to coordinate and leverage other appropriate Federal resources: *Provided further*, That no more than $5,000,000 of funds made available under this heading may be provided to assist communities in developing comprehensive strategies for implementing this program or implementing other revitalization efforts in conjunction with community notice and input: *Provided further*, That the Secretary shall develop and publish guidelines for the use of such competitive funds, including but not limited to eligible activities, program requirements, and performance metrics.

NATIVE AMERICAN HOUSING BLOCK GRANTS

For the Native American Housing Block Grants program, as authorized under title I of the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) (25 U.S.C. 4111 et seq.), $650,000,000, to remain available until expended: *Provided*, That, notwithstanding the Native American Housing Assistance and Self-Determination Act of 1996, to determine the amount of the allocation under title I of such Act for each Indian tribe, the Secretary shall apply the formula under section 302 of such Act with the need component based on single-race census data and with the need component based on multi-race census data, and the amount of the allocation for each Indian tribe shall be the greater of the two resulting allocation amounts: *Provided further*, That of the amounts made available under this heading, $3,500,000 shall be contracted for assistance for a national organization representing Native American housing interests for providing training and technical assistance to Indian housing authorities and tribally designated housing entities as authorized under NAHASDA; and $4,250,000 shall be to support the inspection of Indian housing units, contract expertise, training, and technical assistance in the training, oversight, and management of such Indian housing and tenant-based assistance, including up to $300,000 for related travel: *Provided further*, That of the amount provided under this heading, $2,000,000 shall be made available for the cost of guaranteed notes and other obligations, as authorized by title VI of NAHASDA: *Provided further*, That such costs, including the costs of modifying such notes and other obligations, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further*, That these funds are available to subsidize the total principal amount of any notes and other obligations, any part of which is to be guaranteed, not to exceed $20,000,000.

NATIVE HAWAIIAN HOUSING BLOCK GRANT

For the Native Hawaiian Housing Block Grant program, as authorized under title VIII of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4111 et seq.), $13,000,000, to remain available until expended: *Provided*, That of this amount, $300,000 shall be for training and technical assistance activities, including up to $100,000 for related travel by Hawaii-based HUD employees.

INDIAN HOUSING LOAN GUARANTEE FUND PROGRAM ACCOUNT

For the cost of guaranteed loans, as authorized by section 184 of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z), $7,000,000, to remain available until expended: *Provided*, That such costs, including the costs of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, up to $428,000,000: *Provided further*, That up to $750,000 shall be for administrative contract expenses including management processes and systems to carry out the loan guarantee program.

NATIVE HAWAIIAN HOUSING LOAN GUARANTEE FUND PROGRAM ACCOUNT

For the cost of guaranteed loans, as authorized by section 184A of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z) and for such costs for loans used for refinancing, $386,000, to remain available until expended: *Provided*, That such costs, including the costs of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $41,504,000.

COMMUNITY PLANNING AND DEVELOPMENT

HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS

For carrying out the Housing Opportunities for Persons with AIDS program, as authorized by the AIDS Housing Opportunity Act (42 U.S.C. 12901 et seq.), $330,000,000, to remain available until September 30, 2013, except that amounts allocated pursuant to section 854(c)(3) of such Act shall remain available until September 30, 2014: *Provided*, That the Secretary shall renew all expiring contracts for permanent supportive housing that were funded under section 854(c)(3) of such Act that meet all program requirements before awarding funds for new contracts and activities authorized under this section.

COMMUNITY DEVELOPMENT FUND

For assistance to units of State and local government, and to other entities, for economic and community development activities, and for other purposes, $3,001,027,000, to remain available until September 30, 2013, unless otherwise specified: *Provided*, That of the total amount provided, $2,851,027,000 is for carrying out the community development block grant program under title I of the Housing and Community Development Act of 1974, as amended (the ''Act'' herein) (42 U.S.C. 5301 et seq.): *Provided further*, That unless explicitly provided for under this heading (except for planning grants provided in the second paragraph and amounts made available under the third paragraph), not to exceed 20 percent of any grant made with funds appropriated under this heading shall be expended for planning and management development and administration: *Provided further*, That $60,000,000 shall be for grants to Indian tribes notwithstanding section 106(a)(1) of such Act, of which, notwithstanding any other provision of law (including section 204 of this Act), up to $3,960,000 may be used for emergencies that constitute imminent threats to health and safety.

Of the amounts made available under this heading, $90,000,000 shall be made available

for a Sustainable Communities Initiative to improve regional planning efforts that integrate housing and transportation decisions, and increase the capacity to improve land use and zoning: *Provided*, That $63,000,000 shall be for Regional Integrated Planning Grants to support the linking of transportation and land use planning: *Provided further*, That not less than $15,750,000 of the funding made available for Regional Integrated Planning Grants shall be awarded to metropolitan areas of less than 500,000: *Provided further*, That $27,000,000 shall be for Community Challenge Planning Grants to foster reform and reduce barriers to achieve affordable, economically vital, and sustainable communities: *Provided further*, That the Secretary will consult with the Secretary of Transportation in evaluating grant proposals.

COMMUNITY DEVELOPMENT BLOCK GRANT DISASTER FUNDING

For an additional amount for the ''Community Development Fund'', for necessary expenses related to disaster relief, long-term recovery, and restoration of infrastructure, housing, and economic revitalization resulting from a major disaster designation pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)) in 2011, $400,000,000, to remain available until expended, for activities authorized under title I of the Housing and Community Development Act of 1974 (Public Law 93–383): *Provided*, That the amount provided under this heading is designated by Congress as being for disaster relief pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99–177), as amended: *Provided further*, That funds shall be awarded directly to the State or unit of general local government at the discretion of the Secretary: *Provided further*, That prior to the obligation of funds a grantee shall submit a plan to the Secretary detailing the proposed use of all funds, including criteria for eligibility and how the use of these funds will address long-term recovery and restoration of infrastructure: *Provided further*, That funds provided under this heading may be used by a State or locality as a matching requirement, share, or contribution for any other Federal program: *Provided further*, That such funds may not be used for activities reimbursable by, or for which funds are made available by, the Federal Emergency Management Agency or the Army Corps of Engineers: *Provided further*, That funds allocated under this heading shall not adversely affect the amount of any formula assistance received by a State or subdivision thereof under the Community Development Fund: *Provided further*, That a State or subdivision thereof may use up to 5 percent of its allocation for administrative costs: *Provided further*, That in administering the funds under this heading, the Secretary of Housing and Urban Development may waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or the use by the recipient of these funds or guarantees (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment), upon a request by a State or subdivision thereof explaining why such waiver is required to facilitate the use of such funds or guarantees, if the Secretary finds that such waiver would not be inconsistent with the overall purpose of title I of the Housing and Community Development Act of 1974: *Provided further*, That the Secretary shall publish in the Federal Register any waiver of any statute or regulation that the Secretary administers pursuant to title I of the Housing and Community Development Act of 1974 no later than 5 days before the effective date of such waiver.

COMMUNITY DEVELOPMENT LOAN GUARANTEES PROGRAM ACCOUNT

For the cost of guaranteed loans, $4,960,000, to remain available until September 30, 2012, as authorized by section 108 of the Housing and Community Development Act of 1974 (42 U.S.C. 5308): *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $200,000,000, notwithstanding any aggregate limitation on outstanding obligations guaranteed in section 108(k) of the Housing and Community Development Act of 1974, as amended.

HOME INVESTMENT PARTNERSHIPS PROGRAM

For the HOME investment partnerships program, as authorized under title II of the Cranston-Gonzalez National Affordable Housing Act, as amended, $1,000,000,000, to remain available until September 30, 2013: *Provided*, That notwithstanding the amount made available under this heading, the threshold reduction requirements in sections 216(10) and 217(b)(4) of such Act shall not apply to allocation of such amount: *Provided further*, That funds made available under this heading used for projects not completed within 4 years of the commitment date, as determined by a signature of each party to the agreement shall be repaid: *Provided further*, That the Secretary may extend the deadline for 1 year if the Secretary determines that the failure to complete the project is beyond the control of the participating jurisdiction: *Provided further*, That no funds provided under this heading may be committed to any project included as part of a participating jurisdiction's plan under section 105(b), unless each participating jurisdiction certifies that it has conducted an underwriting review, assessed developer capacity and fiscal soundness, and examined neighborhood market conditions to ensure adequate need for each project: *Provided further*, That any homeownership units funded under this heading which cannot be sold to an eligible homeowner within 6 months of project completion shall be rented to an eligible tenant: *Provided further*, That no funds provided under this heading may be awarded for development activities to a community housing development organization that cannot demonstrate that it is has staff with demonstrated development experience: *Provided further*, That funds provided in prior appropriations Acts for technical assistance, that were made available for Community Housing Development Organizations technical assistance, and that still remain available, may be used for HOME technical assistance notwithstanding the purposes for which such amounts were appropriated.

SELF-HELP AND ASSISTED HOMEOWNERSHIP OPPORTUNITY PROGRAM

For the Self-Help and Assisted Homeownership Opportunity Program, as authorized under section 11 of the Housing Opportunity Program Extension Act of 1996, as amended, $57,000,000, to remain available until September 30, 2013: *Provided*, That of the total amount provided under this heading, $17,000,000 shall be made available to the Self-Help and Assisted Homeownership Opportunity Program as authorized under section 11 of the Housing Opportunity Program Extension Act of 1996, as amended: *Provided further*, That $35,000,000 shall be made available for the second, third and fourth capacity building activities authorized under section 4(a) of the HUD Demonstration Act of 1993 (42 U.S.C. 9816 note), of which not less than $5,000,000 may be made available for rural capacity-building activities: *Provided further*, That $5,000,000 shall be made available for capacity-building activities for a national organization with expertise in rural housing, including experience working with rural housing organizations, local governments, and Indian tribes.

HOMELESS ASSISTANCE GRANTS

(INCLUDING TRANSFER OF FUNDS)

For the emergency solutions grants program as authorized under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act, as amended; the continuum of care program as authorized under subtitle C of title IV of such Act; and the rural housing stability assistance program as authorized under subtitle D of title IV of such Act, $1,901,190,000, of which $1,896,190,000 shall remain available until September 30, 2014, and of which $5,000,000 shall remain available until expended for project-based rental assistance with rehabilitation projects with 10-year grant terms and any rental assistance amounts that are recaptured under such continuum of care program shall remain available until expended: *Provided*, That not less than $286,000,000 of the funds appropriated under this heading shall be available for such emergency solutions grants program: *Provided further*, That not less than $1,602,190,000 of the funds appropriated under this heading shall be available for such continuum of care and rural housing stability assistance programs: *Provided further*, That up to $8,000,000 of the funds appropriated under this heading shall be available for the national homeless data analysis project: *Provided further*, That for all match requirements applicable to funds made available under this heading for this fiscal year and prior years, a grantee may use (or could have used) as a source of match funds other funds administered by the Secretary and other Federal agencies unless there is (or was) a specific statutory prohibition on any such use of any such funds: *Provided further*, That the Secretary shall renew on an annual basis expiring contracts or amendments to contracts funded under the continuum of care program if the program is determined to be needed under the applicable continuum of care and meets appropriate program requirements and financial standards, as determined by the Secretary: *Provided further*, That all awards of assistance under this heading shall be required to coordinate and integrate homeless programs with other mainstream health, social services, and employment programs for which homeless populations may be eligible, including Medicaid, State Children's Health Insurance Program, Temporary Assistance for Needy Families, Food Stamps, and services funding through the Mental Health and Substance Abuse Block Grant, Workforce Investment Act, and the Welfare-to-Work grant program: *Provided further*, That all balances for Shelter Plus Care renewals previously funded from the Shelter Plus Care Renewal account and transferred to this account shall be available, if recaptured, for continuum of care renewals in fiscal year 2012.

HOUSING PROGRAMS

PROJECT-BASED RENTAL ASSISTANCE

For activities and assistance for the provision of project-based subsidy contracts under the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) (''the Act''), not otherwise provided for, $9,018,672,000, to remain available until expended, shall be available on October 1, 2011 (in addition to the $400,000,000 previously appropriated under this heading that will become available October 1, 2012), and $400,000,000, to remain

available until expended, shall be available on October 1, 2012: *Provided*, That the amounts made available under this heading shall be available for expiring or terminating section 8 project-based subsidy contracts (including section 8 moderate rehabilitation contracts), for amendments to section 8 project-based subsidy contracts (including section 8 moderate rehabilitation contracts), for contracts entered into pursuant to section 441 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11401), for renewal of section 8 contracts for units in projects that are subject to approved plans of action under the Emergency Low Income Housing Preservation Act of 1987 or the Low-Income Housing Preservation and Resident Homeownership Act of 1990, and for administrative and other expenses associated with project-based activities and assistance funded under this paragraph: *Provided further*, That of the total amounts provided under this heading, not to exceed $289,000,000 shall be available for performance-based contract administrators for section 8 project-based assistance: *Provided further*, That the Secretary of Housing and Urban Development may also use such amounts in the previous proviso for performance-based contract administrators for the administration of: interest reduction payments pursuant to section 236(a) of the National Housing Act (12 U.S.C. 1715z–1(a)); rent supplement payments pursuant to section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s); section 236(f)(2) rental assistance payments (12 U.S.C. 1715z–1(f)(2)); project rental assistance contracts for the elderly under section 202(c)(2) of the Housing Act of 1959 (12 U.S.C. 1701q); project rental assistance contracts for supportive housing for persons with disabilities under section 811(d)(2) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013(d)(2)); project assistance contracts pursuant to section 202(h) of the Housing Act of 1959 (Public Law 86–372; 73 Stat. 667); and loans under section 202 of the Housing Act of 1959 (Public Law 86–372; 73 Stat. 667): *Provided further*, That amounts recaptured under this heading may be used for renewals of or amendments to section 8 project-based contracts or for performance-based contract administrators, notwithstanding the purposes for which such amounts were appropriated.

HOUSING FOR THE ELDERLY

For capital advances, including amendments to capital advance contracts, for housing for the elderly, as authorized by section 202 of the Housing Act of 1959, as amended, and for project rental assistance for the elderly under section 202(c)(2) of such Act, including amendments to contracts for such assistance and renewal of expiring contracts for such assistance for up to a 1-year term, and for senior preservation rental assistance contracts, as authorized by section 811(e) of the American Housing and Economic Opportunity Act of 2000, as amended, and for supportive services associated with the housing, $369,627,000 to remain available until September 30, 2015: *Provided*, That of the amount provided under this heading, up to $91,000,000 shall be for service coordinators and the continuation of existing congregate service grants for residents of assisted housing projects, and of which up to $20,000,000 shall be for grants under section 202b of the Housing Act of 1959 (12 U.S.C. 1701q–2) for conversion of eligible projects under such section to assisted living, service-enriched housing, or related use for substantial and emergency repairs as determined by the Secretary: *Provided further*, That amounts under this heading shall be available for Real Estate Assessment Center inspections and inspection-related activities associated with section 202 capital advance projects: *Provided further*, That the Secretary may waive the provisions of section 202 governing the terms and conditions of project rental assistance, except that the initial contract term for such assistance shall not exceed 5 years in duration.

HOUSING FOR PERSONS WITH DISABILITIES

For capital advance contracts, including amendments to capital advance contracts, for supportive housing for persons with disabilities, as authorized by section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013) and for project rental assistance for supportive housing for persons with disabilities under section 811(d)(2) of such Act, including amendments to contracts for such assistance and renewal of expiring contracts for such assistance for up to a 1-year term, and for supportive services associated with the housing for persons with disabilities as authorized by section 811(b)(1) of such Act, $150,000,000 to remain available until September 30, 2015: *Provided*, That the Secretary may waive the provisions of section 811 governing the terms and conditions of project rental assistance, except that the initial contract term for such assistance shall not exceed 5 years in duration: *Provided further*, That amounts made available under this heading shall be available for Real Estate Assessment Center inspections and inspection-related activities associated with section 811 Capital Advance Projects: *Provided further*, That the Secretary shall conduct a demonstration program to make available funds provided under this heading for project rental assistance to State housing finance agencies and other appropriate entities as authorized under section 811(b)(3) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013(b)(3)).

HOUSING COUNSELING ASSISTANCE

For contracts, grants, and other assistance excluding loans, as authorized under section 106 of the Housing and Urban Development Act of 1968, as amended, $60,000,000, including up to $2,500,000 for administrative contract services, to remain available until September 30, 2012: *Provided*, That grants made available from amounts provided under this heading shall be awarded within 120 days of enactment of this Act: *Provided further*, That funds shall be used for providing counseling and advice to tenants and homeowners, both current and prospective, with respect to property maintenance, financial management/literacy, and such other matters as may be appropriate to assist them in improving their housing conditions, meeting their financial needs, and fulfilling the responsibilities of tenancy or homeownership; for program administration; and for housing counselor training.

OTHER ASSISTED HOUSING PROGRAMS

RENTAL HOUSING ASSISTANCE

For amendments to or extensions for up to 1 year of contracts under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s) and section 236(f)(2) of the National Housing Act (12 U.S.C. 1715z–1) in State-aided, noninsured rental housing projects, $1,300,000, to remain available until expended.

RENT SUPPLEMENT

(RESCISSION)

Of the amounts recaptured from terminated contracts under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s) and section 236 of the National Housing Act (12 U.S.C. 1715z–1) $231,600,000 are rescinded: *Provided*, That no amounts may be rescinded from amounts that were designated by the Congress as an emergency requirement pursuant to the Concurrent Resolution on the Budget or the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

PAYMENT TO MANUFACTURED HOUSING FEES TRUST FUND

For necessary expenses as authorized by the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5401 et seq.), up to $9,000,000, to remain available until expended, of which $4,000,000 is to be derived from the Manufactured Housing Fees Trust Fund: *Provided*, That not to exceed the total amount appropriated under this heading shall be available from the general fund of the Treasury to the extent necessary to incur obligations and make expenditures pending the receipt of collections to the Fund pursuant to section 620 of such Act: *Provided further*, That the amount made available under this heading from the general fund shall be reduced as such collections are received during fiscal year 2011 so as to result in a final fiscal year 2011 appropriation from the general fund estimated at not more than $5,000,000 and fees pursuant to such section 620 shall be modified as necessary to ensure such a final fiscal year 2011 appropriation: *Provided further*, That for the dispute resolution and installation programs, the Secretary of Housing and Urban Development may assess and collect fees from any program participant: *Provided further*, That such collections shall be deposited into the Fund, and the Secretary, as provided herein, may use such collections, as well as fees collected under section 620, for necessary expenses of such Act: *Provided further*, That notwithstanding the requirements of section 620 of such Act, the Secretary may carry out responsibilities of the Secretary under such Act through the use of approved service providers that are paid directly by the recipients of their services.

FEDERAL HOUSING ADMINISTRATION

MUTUAL MORTGAGE INSURANCE PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

New commitments to guarantee single family loans insured under the Mutual Mortgage Insurance Fund shall not exceed $400,000,000,000, to remain available until September 30, 2013: *Provided*, That during fiscal year 2012, obligations to make direct loans to carry out the purposes of section 204(g) of the National Housing Act, as amended, shall not exceed $50,000,000: *Provided further*, That the foregoing amount in the previous proviso shall be for loans to nonprofit and governmental entities in connection with sales of single family real properties owned by the Secretary and formerly insured under the Mutual Mortgage Insurance Fund. For administrative contract expenses of the Federal Housing Administration, $206,586,000, to remain available until September 30, 2013, of which up to $70,652,000 may be transferred to and merged with the Working Capital Fund: *Provided further*, That to the extent guaranteed loan commitments exceed $200,000,000,000 on or before April 1, 2012, an additional $1,400 for administrative contract expenses shall be available for each $1,000,000 in additional guaranteed loan commitments (including a pro rata amount for any amount below $1,000,000), but in no case shall funds made available by this proviso exceed $30,000,000.

GENERAL AND SPECIAL RISK PROGRAM ACCOUNT

During fiscal year 2012, commitments to guarantee loans incurred under the General and Special Risk Insurance Funds, as authorized by sections 238 and 519 of the National Housing Act (12 U.S.C. 1715z–3 and 1735c), shall not exceed $25,000,000,000 in total loan principal, any part of which is to be guaranteed.

Gross obligations for the principal amount of direct loans, as authorized by sections

204(g), 207(l), 238, and 519(a) of the National Housing Act, shall not exceed $20,000,000, which shall be for loans to nonprofit and governmental entities in connection with the sale of single family real properties owned by the Secretary and formerly insured under such Act.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

GUARANTEES OF MORTGAGE-BACKED SECURITIES LOAN GUARANTEE PROGRAM ACCOUNT

New commitments to issue guarantees to carry out the purposes of section 306 of the National Housing Act, as amended (12 U.S.C. 1721(g)), shall not exceed $500,000,000,000, to remain available until September 30, 2013: *Provided*, That $20,000,000 shall be available for personnel compensation and benefits, and other administrative expenses of the Government National Mortgage Association: *Provided further*, That to the extent that guaranteed loan commitments will and do exceed $300,000,000,000, an additional $100 for personnel compensation and benefits, and administrative expenses shall be available until expended for each $1,000,000 in additional guaranteed loan commitments (including a pro rata amount for any amount below $1,000,000): *Provided further*, That receipts from Commitment and Multiclass fees collected pursuant to title III of the National Housing Act, as amended, shall be credited as offsetting collections to this account.

POLICY DEVELOPMENT AND RESEARCH

RESEARCH AND TECHNOLOGY

For contracts, grants, and necessary expenses of programs of research and studies relating to housing and urban problems, not otherwise provided for, as authorized by title V of the Housing and Urban Development Act of 1970 (12 U.S.C. 1701z–1 et seq.), including carrying out the functions of the Secretary of Housing and Urban Development under section 1(a)(1)(i) of Reorganization Plan No. 2 of 1968, $45,825,000, to remain available until September 30, 2013: *Provided*, That with respect to amounts made available under this heading, notwithstanding section 204 of this title, the Secretary may enter into cooperative agreements funded with philanthropic entities, other Federal agencies, or State or local governments and their agencies for research projects: *Provided further*, That with respect to the previous proviso, such partners to the cooperative agreements must contribute at least a 50 percent match toward the cost of the project: *Provided further*, That for non-competitive agreements entered into in accordance with the previous two provisos, the Secretary of Housing and Urban Development shall comply with section 2(b) of the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109–282, 31 U.S.C. note) in lieu of compliance with section 102(a)(4)(C) with respect to documentation of award decisions.

FAIR HOUSING AND EQUAL OPPORTUNITY

FAIR HOUSING ACTIVITIES

For contracts, grants, and other assistance, not otherwise provided for, as authorized by title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, and section 561 of the Housing and Community Development Act of 1987, as amended, $64,287,000, to remain available until September 30, 2013, of which $35,940,000 shall be to carry out activities pursuant to such section 561: *Provided*, That notwithstanding 31 U.S.C. 3302, the Secretary may assess and collect fees to cover the costs of the Fair Housing Training Academy, and may use such funds to provide such training: *Provided further*, That no funds made available under this heading shall be used to lobby the executive or legislative branches of the Federal Government in connection with a specific contract, grant or loan: *Provided further*, That of the funds made available under this heading, $300,000 shall be available to the Secretary of Housing and Urban Development for the creation and promotion of translated materials and other programs that support the assistance of persons with limited English proficiency in utilizing the services provided by the Department of Housing and Urban Development.

OFFICE OF HEALTHY HOMES AND LEAD HAZARD CONTROL

LEAD HAZARD REDUCTION

For the Lead Hazard Reduction Program, as authorized by section 1011 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, $120,000,000, to remain available until September 30, 2013, pursuant to sections 501 and 502 of the Housing and Urban Development Act of 1970 that shall include research, studies, testing, and demonstration efforts, including education and outreach concerning lead-based paint poisoning and other housing-related diseases and hazards: *Provided*, That for purposes of environmental review, pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other provisions of the law that further the purposes of such Act, a grant under the Healthy Homes Initiative, Operation Lead Elimination Action Plan (LEAP), or the Lead Technical Studies program under this heading or under prior appropriations Acts for such purposes under this heading, shall be considered to be funds for a special project for purposes of section 305(c) of the Multifamily Housing Property Disposition Reform Act of 1994: *Provided further*, That of the total amount made available under this heading, $45,000,000 shall be made available on a competitive basis for areas with the highest lead paint abatement needs: *Provided further*, That each recipient of funds provided under the second proviso shall make a matching contribution in an amount not less than 25 percent: *Provided further*, That the Secretary may waive the matching requirement cited in the preceding proviso on a case by case basis if the Secretary determines that such a waiver is necessary to advance the purposes of this program: *Provided further*, That each applicant shall submit a detailed plan and strategy that demonstrates adequate capacity that is acceptable to the Secretary to carry out the proposed use of funds pursuant to a notice of funding availability: *Provided further*, That amounts made available under this heading in this or prior appropriations Acts, and that still remain available, may be used for any purpose under this heading notwithstanding the purpose for which such amounts were appropriated if a program competition is undersubscribed and there are other program competitions under this heading that are oversubscribed.

WORKING CAPITAL FUND

For additional capital for the Working Capital Fund (42 U.S.C. 3535) for the maintenance of infrastructure for Department-wide information technology systems, for the continuing operation and maintenance of both Department-wide and program-specific information systems, and for program-related maintenance activities, $199,035,000, to remain available until September 30, 2013: *Provided*, That any amounts transferred to this Fund under this Act shall remain available until expended: *Provided further*, That any amounts transferred to this Fund from amounts appropriated by previously enacted appropriations Acts may be used for the purposes specified under this Fund, in addition to any other information technology the purposes for which such amounts were appropriated: *Provided further*, That not more than 25 percent of the funds made available under this heading for Development, Modernization and Enhancement, including development and deployment of a Next Generation of Voucher Management System and development and deployment of modernized Federal Housing Administration systems may be obligated until the Secretary submits to the Committees on Appropriations a plan for expenditure that—(A) identifies for each modernization project: (i) the functional and performance capabilities to be delivered and the mission benefits to be realized, (ii) the estimated life-cycle cost, and (iii) key milestones to be met; (B) demonstrates that each modernization project is: (i) compliant with the department's enterprise architecture, (ii) being managed in accordance with applicable life-cycle management policies and guidance, (iii) subject to the department's capital planning and investment control requirements, and (iv) supported by an adequately staffed project office; and (C) has been reviewed by the Government Accountability Office.

OFFICE OF INSPECTOR GENERAL

For necessary salaries and expenses of the Office of Inspector General in carrying out the Inspector General Act of 1978, as amended, $124,750,000: *Provided*, That the Inspector General shall have independent authority over all personnel issues within this office.

TRANSFORMATION INITIATIVE

(INCLUDING TRANSFER OF FUNDS)

Of the amounts made available in this Act under each of the following headings under this title, the Secretary may transfer to, and merge with, this account up to 0.5 percent from each such account, and such transferred amounts shall be available until September 30, 2014, for: (1) research, evaluation, and program metrics; (2) program demonstrations; and (3) technical assistance and capacity building: ''Choice Neighborhoods Initiative'', ''Housing Opportunities for Persons With AIDS'', ''Community Development Fund'', ''HOME Investment Partnerships Program'', ''Self-Help and Assisted Homeownership Opportunity Program'', ''Homeless Assistance Grants'', ''Housing for the Elderly'', ''Housing for Persons With Disabilities'', ''Housing Counseling Assistance'', ''Payment to Manufactured Housing Fees Trust Fund'', ''Mutual Mortgage Insurance Program Account'', ''Lead Hazard Reduction'', ''Rental Housing Assistance'', and ''Fair Housing Activities'': *Provided*, That of the amounts made available under this paragraph, not less than $45,000,000 shall be available for technical assistance and capacity building: *Provided further*, That technical assistance activities shall include, technical assistance for HUD programs, including HOME, Community Development Block Grant, homeless programs, HOPWA, HOPE VI, Public Housing, the Housing Choice Voucher Program, Fair Housing Initiative Program, Housing Counseling, Healthy Homes, Sustainable Communities, and other technical assistance as determined by the Secretary: *Provided further*, That the Secretary shall submit a plan to the House and Senate Committees on Appropriations for approval detailing how the funding provided under this heading will be allocated to each of the four categories identified under this heading and for what projects or activities funding will be used: *Provided further*, That following the initial approval of this plan, the Secretary may amend the plan with the approval of the House and Senate Committees on Appropriations: *Provided further*, That with respect to amounts made available under this heading for research, evaluation, program metrics, and program demonstrations, notwithstanding section 204 of

this title, the Secretary may make grants or enter into cooperative agreements that include a substantial match contribution.

GENERAL PROVISIONS—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SEC. 201. Fifty percent of the amounts of budget authority, or in lieu thereof 50 percent of the cash amounts associated with such budget authority, that are recaptured from projects described in section 1012(a) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 1437 note) shall be rescinded or in the case of cash, shall be remitted to the Treasury, and such amounts of budget authority or cash recaptured and not rescinded or remitted to the Treasury shall be used by State housing finance agencies or local governments or local housing agencies with projects approved by the Secretary of Housing and Urban Development for which settlement occurred after January 1, 1992, in accordance with such section. Notwithstanding the previous sentence, the Secretary may award up to 15 percent of the budget authority or cash recaptured and not rescinded or remitted to the Treasury to provide project owners with incentives to refinance their project at a lower interest rate.

SEC. 202. None of the amounts made available under this Act may be used during fiscal year 2012 to investigate or prosecute under the Fair Housing Act any otherwise lawful activity engaged in by one or more persons, including the filing or maintaining of a nonfrivolous legal action, that is engaged in solely for the purpose of achieving or preventing action by a Government official or entity, or a court of competent jurisdiction.

SEC. 203. (a) Notwithstanding section 854(c)(1)(A) of the AIDS Housing Opportunity Act (42 U.S.C. 12903(c)(1)(A)), from any amounts made available under this title for fiscal year 2012 that are allocated under such section, the Secretary of Housing and Urban Development shall allocate and make a grant, in the amount determined under subsection (b), for any State that—

(1) received an allocation in a prior fiscal year under clause (ii) of such section; and

(2) is not otherwise eligible for an allocation for fiscal year 2012 under such clause (ii) because the areas in the State outside of the metropolitan statistical areas that qualify under clause (i) in fiscal year 2011 do not have the number of cases of acquired immunodeficiency syndrome (AIDS) required under such clause.

(b) The amount of the allocation and grant for any State described in subsection (a) shall be an amount based on the cumulative number of AIDS cases in the areas of that State that are outside of metropolitan statistical areas that qualify under clause (i) of such section 854(c)(1)(A) in fiscal year 2012, in proportion to AIDS cases among cities and States that qualify under clauses (i) and (ii) of such section and States deemed eligible under subsection (a).

(c) Notwithstanding any other provision of law, the amount allocated for fiscal year 2012 under section 854(c) of the AIDS Housing Opportunity Act (42 U.S.C. 12903(c)), to the city of New York, New York, on behalf of the New York-Wayne-White Plains, New York-New Jersey Metropolitan Division (hereafter ''metropolitan division'') of the New York-Newark-Edison, NY–NJ–PA Metropolitan Statistical Area, shall be adjusted by the Secretary of Housing and Urban Development by:

(1) allocating to the city of Jersey City, New Jersey, the proportion of the metropolitan area's or division's amount that is based on the number of cases of AIDS reported in the portion of the metropolitan area or division that is located in Hudson County, New Jersey, and adjusting for the proportion of the metropolitan division's high-incidence bonus if this area in New Jersey also has a higher than average per capita incidence of AIDS; and

(2) allocating to the city of Paterson, New Jersey, the proportion of the metropolitan area's or division's amount that is based on the number of cases of AIDS reported in the portion of the metropolitan area or division that is located in Bergen County and Passaic County, New Jersey, and adjusting for the proportion of the metropolitan division's high incidence bonus if this area in New Jersey also has a higher than average per capita incidence of AIDS. The recipient cities shall use amounts allocated under this subsection to carry out eligible activities under section 855 of the AIDS Housing Opportunity Act (42 U.S.C. 12904) in their respective portions of the metropolitan division that is located in New Jersey.

(d) Notwithstanding any other provision of law, the amount allocated for fiscal year 2012 under section 854(c) of the AIDS Housing Opportunity Act (42 U.S.C. 12903(c)) to areas with a higher than average per capita incidence of AIDS, shall be adjusted by the Secretary on the basis of area incidence reported over a 3-year period.

SEC. 204. Except as explicitly provided in law, any grant, cooperative agreement or other assistance made pursuant to title II of this Act shall be made on a competitive basis and in accordance with section 102 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545).

SEC. 205. Funds of the Department of Housing and Urban Development subject to the Government Corporation Control Act or section 402 of the Housing Act of 1950 shall be available, without regard to the limitations on administrative expenses, for legal services on a contract or fee basis, and for utilizing and making payment for services and facilities of the Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Financing Bank, Federal Reserve banks or any member thereof, Federal Home Loan banks, and any insured bank within the meaning of the Federal Deposit Insurance Corporation Act, as amended (12 U.S.C. 1811–1).

SEC. 206. Unless otherwise provided for in this Act or through a reprogramming of funds, no part of any appropriation for the Department of Housing and Urban Development shall be available for any program, project or activity in excess of amounts set forth in the budget estimates submitted to Congress.

SEC. 207. Corporations and agencies of the Department of Housing and Urban Development which are subject to the Government Corporation Control Act are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accordance with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of such Act as may be necessary in carrying out the programs set forth in the budget for 2012 for such corporation or agency except as hereinafter provided: *Provided*, That collections of these corporations and agencies may be used for new loan or mortgage purchase commitments only to the extent expressly provided for in this Act (unless such loans are in support of other forms of assistance provided for in this or prior appropriations Acts), except that this proviso shall not apply to the mortgage insurance or guaranty operations of these corporations, or where loans or mortgage purchases are necessary to protect the financial interest of the United States Government.

SEC. 208. The Secretary of Housing and Urban Development shall provide quarterly reports to the House and Senate Committees on Appropriations regarding all uncommitted, unobligated, recaptured and excess funds in each program and activity within the jurisdiction of the Department and shall submit additional, updated budget information to these Committees upon request.

SEC. 209. (a) Notwithstanding any other provision of law, the amount allocated for fiscal year 2012 under section 854(c) of the AIDS Housing Opportunity Act (42 U.S.C. 12903(c)), to the city of Wilmington, Delaware, on behalf of the Wilmington, Delaware-Maryland-New Jersey Metropolitan Division (hereafter ''metropolitan division''), shall be adjusted by the Secretary of Housing and Urban Development by allocating to the State of New Jersey the proportion of the metropolitan division's amount that is based on the number of cases of AIDS reported in the portion of the metropolitan division that is located in New Jersey, and adjusting for the proportion of the metropolitan division's high incidence bonus if this area in New Jersey also has a higher than average per capita incidence of AIDS. The State of New Jersey shall use amounts allocated to the State under this subsection to carry out eligible activities under section 855 of the AIDS Housing Opportunity Act (42 U.S.C. 12904) in the portion of the metropolitan division that is located in New Jersey.

(b) Notwithstanding any other provision of law, the Secretary of Housing and Urban Development shall allocate to Wake County, North Carolina, the amounts that otherwise would be allocated for fiscal year 2012 under section 854(c) of the AIDS Housing Opportunity Act (42 U.S.C. 12903(c)) to the city of Raleigh, North Carolina, on behalf of the Raleigh-Cary North Carolina Metropolitan Statistical Area. Any amounts allocated to Wake County shall be used to carry out eligible activities under section 855 of such Act (42 U.S.C. 12904) within such metropolitan statistical area.

(c) Notwithstanding section 854(c) of the AIDS Housing Opportunity Act (42 U.S.C. 12903(c)), the Secretary of Housing and Urban Development may adjust the allocation of the amounts that otherwise would be allocated for fiscal year 2012 under section 854(c) of such Act, upon the written request of an applicant, in conjunction with the State(s), for a formula allocation on behalf of a metropolitan statistical area, to designate the State or States in which the metropolitan statistical area is located as the eligible grantee(s) of the allocation. In the case that a metropolitan statistical area involves more than one State, such amounts allocated to each State shall be in proportion to the number of cases of AIDS reported in the portion of the metropolitan statistical area located in that State. Any amounts allocated to a State under this section shall be used to carry out eligible activities within the portion of the metropolitan statistical area located in that State.

SEC. 210 The President's formal budget request for fiscal year 2013, as well as the Department of Housing and Urban Development's congressional budget justifications to be submitted to the Committees on Appropriations of the House of Representatives and the Senate, shall use the identical account and sub-account structure provided under this Act.

SEC. 211. A public housing agency or such other entity that administers Federal housing assistance for the Housing Authority of the county of Los Angeles, California, the States of Alaska, Iowa, and Mississippi shall not be required to include a resident of public housing or a recipient of assistance provided under section 8 of the United States

Housing Act of 1937 on the board of directors or a similar governing board of such agency or entity as required under section (2)(b) of such Act. Each public housing agency or other entity that administers Federal housing assistance under section 8 for the Housing Authority of the county of Los Angeles, California and the States of Alaska, Iowa and Mississippi that chooses not to include a resident of public housing or a recipient of section 8 assistance on the board of directors or a similar governing board shall establish an advisory board of not less than six residents of public housing or recipients of section 8 assistance to provide advice and comment to the public housing agency or other administering entity on issues related to public housing and section 8. Such advisory board shall meet not less than quarterly.

SEC. 212. (a) Notwithstanding any other provision of law, subject to the conditions listed in subsection (b), for fiscal years 2012 and 2013, the Secretary of Housing and Urban Development may authorize the transfer of some or all project-based assistance, debt and statutorily required low-income and very low-income use restrictions, associated with one or more multifamily housing project to another multifamily housing project or projects.

(b) PHASED TRANSFERS.—Transfers of project-based assistance under this section may be done in phases to accommodate the financing and other requirements related to rehabilitating or constructing the project or projects to which the assistance is transferred, to ensure that such project or projects meet the standards under section (c).

(c) The transfer authorized in subsection (a) is subject to the following conditions:

(1) NUMBER AND BEDROOM SIZE OF UNITS.—

(A) For occupied units in the transferring project: the number of low-income and very low-income units and the configuration (i.e. bedroom size) provided by the transferring project shall be no less than when transferred to the receiving project or projects and the net dollar amount of Federal assistance provided by the transferring project shall remain the same in the receiving project or projects.

(B) For unoccupied units in the transferring project: the Secretary may authorize a reduction in the number of dwelling units in the receiving project or projects to allow for a reconfiguration of bedroom sizes to meet current market demands, as determined by the Secretary and provided there is no increase in the project-based section 8 budget authority.

(2) The transferring project shall, as determined by the Secretary, be either physically obsolete or economically nonviable.

(3) The receiving project or projects shall meet or exceed applicable physical standards established by the Secretary.

(4) The owner or mortgagor of the transferring project shall notify and consult with the tenants residing in the transferring project and provide a certification of approval by all appropriate local governmental officials.

(5) The tenants of the transferring project who remain eligible for assistance to be provided by the receiving project or projects shall not be required to vacate their units in the transferring project or projects until new units in the receiving project are available for occupancy.

(6) The Secretary determines that this transfer is in the best interest of the tenants.

(7) If either the transferring project or the receiving project or projects meets the condition specified in subsection (d)(2)(A), any lien on the receiving project resulting from additional financing obtained by the owner shall be subordinate to any FHA-insured mortgage lien transferred to, or placed on, such project by the Secretary, except that the Secretary may waive this requirement upon determination that such a waiver is necessary to facilitate the financing of acquisition, construction, and/or rehabilitation of the receiving project or projects.

(8) If the transferring project meets the requirements of subsection (c)(2)(E), the owner or mortgagor of the receiving project or projects shall execute and record either a continuation of the existing use agreement or a new use agreement for the project where, in either case, any use restrictions in such agreement are of no lesser duration than the existing use restrictions.

(d) For purposes of this section—

(1) the terms ''low-income'' and ''very low-income'' shall have the meanings provided by the statute and/or regulations governing the program under which the project is insured or assisted;

(2) the term ''multifamily housing project'' means housing that meets one of the following conditions—

(A) housing that is subject to a mortgage insured under the National Housing Act;

(B) housing that has project-based assistance attached to the structure including projects undergoing mark to market debt restructuring under the Multifamily Assisted Housing Reform and Affordability Housing Act;

(C) housing that is assisted under section 202 of the Housing Act of 1959 as amended by section 801 of the Cranston-Gonzales National Affordable Housing Act;

(D) housing that is assisted under section 202 of the Housing Act of 1959, as such section existed before the enactment of the Cranston-Gonzales National Affordable Housing Act; or

(E) housing or vacant land that is subject to a use agreement;

(3) the term ''project-based assistance'' means—

(A) assistance provided under section 8(b) of the United States Housing Act of 1937;

(B) assistance for housing constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of such Act (as such section existed immediately before October 1, 1983);

(C) rent supplement payments under section 101 of the Housing and Urban Development Act of 1965;

(D) interest reduction payments under section 236 and/or additional assistance payments under section 236(f)(2) of the National Housing Act;

(E) assistance payments made under section 202(c)(2) of the Housing Act of 1959; and

(F) assistance payments made under section 811(d)(2) of the Housing Act of 1959;

(4) the term ''receiving project or projects'' means the multifamily housing project or projects to which some or all of the project-based assistance, debt, and statutorily required use low-income and very low-income restrictions are to be transferred;

(5) the term ''transferring project'' means the multifamily housing project which is transferring some or all of the project-based assistance, debt and the statutorily required low-income and very low-income use restrictions to the receiving project or projects; and

(6) the term ''Secretary'' means the Secretary of Housing and Urban Development.

SEC. 213. The funds made available for Native Alaskans under the heading ''Native American Housing Block Grants'' in title III of this Act shall be allocated to the same Native Alaskan housing block grant recipients that received funds in fiscal year 2005.

SEC. 214. No funds provided under this title may be used for an audit of the Government National Mortgage Association that makes applicable requirements under the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

SEC. 215. (a) No assistance shall be provided under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) to any individual who—

(1) is enrolled as a student at an institution of higher education (as defined under section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002));

(2) is under 24 years of age;

(3) is not a veteran;

(4) is unmarried;

(5) does not have a dependent child;

(6) is not a person with disabilities, as such term is defined in section 3(b)(3)(E) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(3)(E)) and was not receiving assistance under such section 8 as of November 30, 2005; and

(7) is not otherwise individually eligible, or has parents who, individually or jointly, are not eligible, to receive assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

(b) For purposes of determining the eligibility of a person to receive assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), any financial assistance (in excess of amounts received for tuition) that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income to that individual, except for a person over the age of 23 with dependent children.

SEC. 216. Notwithstanding the limitation in the first sentence of section 255(g) of the National Housing Act (12 U.S.C. 1715z–g), the Secretary of Housing and Urban Development may, until September 30, 2012, insure and enter into commitments to insure mortgages under section 255(g) of the National Housing Act (12 U.S.C. 1715z–20).

SEC. 217. Notwithstanding any other provision of law, in fiscal year 2011, in managing and disposing of any multifamily property that is owned or has a mortgage held by the Secretary of Housing and Urban Development, and during the process of foreclosure on any property with a contract for rental assistance payments under section 8 of the United States Housing Act of 1937 or other Federal programs, the Secretary shall maintain any rental assistance payments under section 8 of the United States Housing Act of 1937 and other programs that are attached to any dwelling units in the property. To the extent the Secretary determines, in consultation with the tenants and the local government, that such a multifamily property owned or held by the Secretary is not feasible for continued rental assistance payments under such section 8 or other programs, based on consideration of (1) the costs of rehabilitating and operating the property and all available Federal, State, and local resources, including rent adjustments under section 524 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (''MAHRAA'') and (2) environmental conditions that cannot be remedied in a cost-effective fashion, the Secretary may, in consultation with the tenants of that property, contract for project-based rental assistance payments with an owner or owners of other existing housing properties, or provide other rental assistance. The Secretary shall also take appropriate steps to ensure that project-based contracts remain in effect prior to foreclosure, subject to the exercise of contractual abatement remedies to assist relocation of tenants for imminent major threats to health and safety after written notice to and informed consent of the affected tenants and use of other available

remedies, such as partial abatements or receivership. After disposition of any multifamily property described under this section, the contract and allowable rent levels on such properties shall be subject to the requirements under section 524 of MAHRAA.

SEC. 218. During fiscal year 2012, in the provision of rental assistance under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) in connection with a program to demonstrate the economy and effectiveness of providing such assistance for use in assisted living facilities that is carried out in the counties of the State of Michigan notwithstanding paragraphs (3) and (18)(B)(iii) of such section 8(o), a family residing in an assisted living facility in any such county, on behalf of which a public housing agency provides assistance pursuant to section 8(o)(18) of such Act, may be required, at the time the family initially receives such assistance, to pay rent in an amount exceeding 40 percent of the monthly adjusted income of the family by such a percentage or amount as the Secretary of Housing and Urban Development determines to be appropriate.

SEC. 219. The Secretary of Housing and Urban Development shall report quarterly to the House of Representatives and Senate Committees on Appropriations on HUD's use of all sole-source contracts, including terms of the contracts, cost, and a substantive rationale for using a sole-source contract.

SEC. 220. Notwithstanding any other provision of law, the recipient of a grant under section 202b of the Housing Act of 1959 (12 U.S.C. 1701q) after December 26, 2000, in accordance with the unnumbered paragraph at the end of section 202(b) of such Act, may, at its option, establish a single-asset nonprofit entity to own the project and may lend the grant funds to such entity, which may be a private nonprofit organization described in section 831 of the American Homeownership and Economic Opportunity Act of 2000.

SEC. 221. (a) The amounts provided under the subheading ''Program Account'' under the heading ''Community Development Loan Guarantees'' may be used to guarantee, or make commitments to guarantee, notes, or other obligations issued by any State on behalf of nonentitlement communities in the State in accordance with the requirements of section 108 of the Housing and Community Development Act of 1974 in fiscal year 2012 and subsequent years: *Provided*, That, any State receiving such a guarantee or commitment shall distribute all funds subject to such guarantee to the units of general local government in nonentitlement areas that received the commitment.

(b) Not later than 60 days after the date of enactment of this Act, the Secretary of Housing and Urban Development shall promulgate regulations governing the administration of the funds described under subsection (a).

SEC. 222. Section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v) is amended—

(1) in subsection (m)(1), by striking ''fiscal year'' and all that follows through the period at the end and inserting ''fiscal year 2012.''; and

(2) in subsection (o), by striking ''September'' and all that follows through the period at the end and inserting ''September 30, 2012.''.

SEC. 223. Public housing agencies that own and operate 400 or fewer public housing units may elect to be exempt from any asset management requirement imposed by the Secretary of Housing and Urban Development in connection with the operating fund rule: *Provided*, That an agency seeking a discontinuance of a reduction of subsidy under the operating fund formula shall not be exempt from asset management requirements.

SEC. 224. With respect to the use of amounts provided in this Act and in future Acts for the operation, capital improvement and management of public housing as authorized by sections 9(d) and 9(e) of the United States Housing Act of 1937 (42 U.S.C. 1437g(d) and (e)), the Secretary shall not impose any requirement or guideline relating to asset management that restricts or limits in any way the use of capital funds for central office costs pursuant to section 9(g)(1) or 9(g)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437g(g)(1), (2)): *Provided*, That a public housing agency may not use capital funds authorized under section 9(d) for activities that are eligible under section 9(e) for assistance with amounts from the operating fund in excess of the amounts permitted under section 9(g)(1) or 9(g)(2).

SEC. 225. No official or employee of the Department of Housing and Urban Development shall be designated as an allotment holder unless the Office of the Chief Financial Officer has determined that such allotment holder has implemented an adequate system of funds control and has received training in funds control procedures and directives. The Chief Financial Officer shall ensure that, not later than 90 days after the date of enactment of this Act, a trained allotment holder shall be designated for each HUD subaccount under the heading ''Administration, Operations, and Management'' as well as each account receiving appropriations for ''Program Office Salaries and Expenses'' within the Department of Housing and Urban Development.

SEC. 226. The Secretary of Housing and Urban Development shall report quarterly to the House and Senate Committees on Appropriations on the status of all section 8 project-based housing, including the number of all project-based units by region as well as an analysis of all federally subsidized housing being refinanced under the Mark-to-Market program. The Secretary shall in the report identify all existing units maintained by region as section 8 project-based units and all project-based units that have opted out of section 8 or have otherwise been eliminated as section 8 project-based units. The Secretary shall identify in detail and by project all the efforts made by the Department to preserve all section 8 project-based housing units and all the reasons for any units which opted out or otherwise were lost as section 8 project-based units. Such analysis shall include a review of the impact of the loss of any subsidized units in that housing marketplace, such as the impact of cost and the loss of available subsidized, low-income housing in areas with scarce housing resources for low-income families.

SEC. 227. Payment of attorney fees in program-related litigation must be paid from individual program office personnel benefits and compensation funding. The annual budget submission for program office personnel benefit and compensation funding must include program-related litigation costs for attorney fees as a separate line item request.

SEC. 228. The Secretary of the Department of Housing and Urban Development shall for fiscal year 2012 and subsequent fiscal years, notify the public through the Federal Register and other means, as determined appropriate, of the issuance of a notice of the availability of assistance or notice of funding availability (NOFA) for any program or discretionary fund administered by the Secretary that is to be competitively awarded. Notwithstanding any other provision of law, for fiscal year 2012 and subsequent fiscal years, the Secretary may make the NOFA available only on the Internet at the appropriate Government Web site or through other electronic media, as determined by the Secretary.

SEC. 229. No property identified by the Secretary of Housing and Urban Development as surplus Federal property for use to assist the homeless shall be made available to any homeless group unless the group is a member in good standing under any of HUD's homeless assistance programs or is in good standing with any other program which receives funds from any other Federal or State agency or entity: *Provided*, That an exception may be made for an entity not involved with Federal homeless programs to use surplus Federal property for the homeless only after the Secretary or another responsible Federal agency has fully and comprehensively reviewed all relevant finances of the entity, the track record of the entity in assisting the homeless, the ability of the entity to manage the property, including all costs, the ability of the entity to administer homeless programs in a manner that is effective to meet the needs of the homeless population that is expected to use the property and any other related issues that demonstrate a commitment to assist the homeless: *Provided further*, That the Secretary shall not require the entity to have cash in hand in order to demonstrate financial ability but may rely on the entity's prior demonstrated fund-raising ability or commitments for in-kind donations of goods and services: *Provided further*, That the Secretary shall make all such information and its decision regarding the award of the surplus property available to the committees of jurisdiction, including a full justification of the appropriateness of the use of the property to assist the homeless as well as the appropriateness of the group seeking to obtain the property to use such property to assist the homeless: *Provided further*, That, this section shall apply to properties in fiscal years 2011 and 2012 made available as surplus Federal property for use to assist the homeless.

SEC. 230. The Secretary of the Department of Housing and Urban Development is authorized to transfer up to 5 percent or $5,000,000, whichever is less, of the funds made available for salaries and expenses under any account or any set-aside within any account under this title under the general heading ''Program Office Salaries and Expenses'', and under the account heading ''Administration, Operations and Management'', to any other such account or any other such set-aside within any such account: *Provided*, That no appropriation for salaries and expenses in any such account or set-aside shall be increased or decreased by more than 5 percent or $5,000,000, whichever is less, without prior written approval of the House and Senate Committees on Appropriations.

SEC. 231. The Disaster Housing Assistance Programs, administered by the Department of Housing and Urban Development, shall be considered a ''program of the Department of Housing and Urban Development'' under section 904 of the McKinney Act for the purpose of income verifications and matching.

SEC. 232. Of the amounts made available for salaries and expenses under all accounts under this title (except for the Office of Inspector General account), a total of up to $10,000,000 may be transferred to and merged with amounts made available in the ''Working Capital Fund'' account under this title.

SEC. 233. Title II of division I of Public Law 108–447 and title III of Public Law 109–115 are each amended by striking the item related to ''Flexible Subsidy Fund''.

SEC. 234. The Secretary of Housing and Urban Development may increase, pursuant to this section, the number of Moving-to-Work agencies authorized under section 204, title II, of the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations

Act, 1996 (Public Law 104–134; 110 Stat. 1321) by adding to the program up to three Public Housing Agencies that are High Performing Agencies under the Public Housing Assessment System (PHAS) or the Section Eight Management Assessment Program (SEMAP). No PHA shall be granted this designation through this section that administers in excess of 10,000 aggregate housing vouchers and public housing units. No PHA granted this designation through this section shall receive more funding under sections 8 or 9 of the United States Housing Act of 1937 than they otherwise would have received absent this designation. In addition to other reporting requirements, all Moving-to-Work agencies shall report financial data to the Department of Housing and Urban Development as specified by the Secretary, so that the effect of Moving-to-Work policy changes can be measured.

SEC. 235. Of the unobligated balances remaining from funds appropriated under the heading ''Tenant-Based Rental Assistance'' under the ''Full-Year Continuing Appropriations Act, 2011'', $750,000,000 are rescinded from the $4,000,000,000 which are available on October 1, 2011: *Provided*, That such amounts may be derived from reductions to public housing agencies' calendar year 2012 allocations based on the excess amounts of public housing agencies' net restricted assets accounts, including the net restricted assets of MTW agencies (in accordance with VMS data in calendar year 2011 that is verifiable and complete), as determined by the Secretary: *Provided further*, That in making such adjustments, the Secretary shall preserve public housing authority reserves at no less than one month, to the extent practicable.

SEC. 236. The United States Housing Act of 1937 (42 U.S.C. 1437) is amended—

(1) in section 3(a)(1) by inserting before the period at the end of the second sentence the following: '', except in the case of any family with a fixed income, as defined by the Secretary, after the initial review of the family's income, the public housing agency or owner shall not be required to conduct a review of the family's income for any year for which such family certifies, in accordance with such requirements as the Secretary shall establish, that 90 percent or more of the income of the family consists of fixed income, and that the sources of such income have not changed since the previous year, except that the public housing agency or owner shall conduct a review of each such family's income not less than once every 3 years'';

(2) in section 3(b)(2) by inserting after the second sentence the following new sentence: ''The term 'extremely low-income families' means very low-income families whose incomes do not exceed the higher of (A) the poverty guidelines updated periodically by the Department of Health and Human Services under the authority of section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), applicable to a family of the size involved; or (B) 30 percent of the median family income for the area, as determined by the Secretary, with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 30 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes, and except that clause (A) of this sentence shall not apply in the case of public housing agencies located in Puerto Rico or any other territory or possession of the United States.'';

(3) in paragraph (2) of section 3(b) by adding at the end the following new sentence: ''The Secretary shall periodically, but not less than annually, determine or establish area median incomes and income ceilings and limits in accordance with this paragraph'';

(4) in section 3(b)(5)(A)—

(A) in clause (i) by striking ''$400'' and inserting in lieu thereof ''$675''; and

(B) in clause (ii), in the matter preceding subclause (I), by striking ''3 percent'' and inserting in lieu thereof ''10 percent'';

(5) in paragraph (1) of section 8(c)—

(A) by inserting ''(A)'' after the paragraph designation;

(B) by striking the fourth, fifth, seventh, eighth, ninth, and tenth sentences; and

(C) by adding at the end the following:

''(B) Fair market rentals for an area shall be published not less than annually by the Secretary on the Department's Web site and in any other manner specified by the Secretary. The Secretary shall publish notice of the publication of such fair market rentals in the Federal Register, and such fair market rentals shall become effective no earlier than 30 days after the date of such publication. The Secretary shall establish a procedure for public housing agencies and other interested parties to comment on such fair market rentals and to request, within a time specified by the Secretary, reevaluation of the fair market rental in a jurisdiction. The Secretary shall publish for comment in the Federal Register notices of proposed material changes in the methodology for estimating fair market rentals and notices specifying the final decisions regarding such proposed substantial methodological changes and responses to public comments.'';

(6) in subparagraph (B) of section 8(o)(1) by inserting before the period at the end the following: '', except that no public housing agency shall be required as a result of a reduction in the fair market rental to reduce the payment standard applied to a family continuing to reside in a unit for which the family was receiving assistance under this section at the time the fair market rental was reduced. The Secretary shall allow public housing agencies to request exception payment standards within fair market rental areas subject to criteria and procedures established by the Secretary'';

(7) in subparagraph (D) of section 8(o)(1) by inserting before the period at the end the following: ''except that a public housing agency may establish a payment standard of not more than 120 percent of the fair market rent, where necessary, as a reasonable accommodation for a person with a disability, without approval of the Secretary. A public housing agency may seek approval of the Secretary to use a payment standard greater than 120 percent of the fair market rent as a reasonable accommodation for a disabled family or other family with a person with a disability. In connection with the use of any increased payment standard established or approved pursuant to either of the preceding two sentences as a reasonable accommodation for a person with a disability, the Secretary may not establish additional requirements regarding the amount of adjusted income paid by such person for rent'';

(8) in section 16(a)(2)(A) by striking ''families whose incomes'' and all that follows through ''low family incomes'' and inserting in lieu thereof ''extremely low-income families'';

(9) in section 16(b)(1) by striking ''families whose incomes'' and all that follows through ''low family incomes'' and inserting in lieu thereof ''extremely low-income families''; and

(10) in section 16(c)(3) by striking ''families whose incomes'' and all that follows through ''low family incomes'' and inserting in lieu thereof ''extremely low-income families''.

SEC. 236. Section 579 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f) is amended by striking ''October 1, 2011'' each place it appears and inserting in lieu thereof ''October 1, 2015''.

TITLE III

RELATED AGENCIES

ACCESS BOARD

SALARIES AND EXPENSES

For expenses necessary for the Access Board, as authorized by section 502 of the Rehabilitation Act of 1973, as amended, $7,400,000: *Provided*, That, notwithstanding any other provision of law, there may be credited to this appropriation funds received for publications and training expenses.

FEDERAL MARITIME COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Maritime Commission as authorized by section 201(d) of the Merchant Marine Act, 1936, as amended (46 U.S.C. App. 1111), including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles as authorized by 31 U.S.C. 1343(b); and uniforms or allowances therefore, as authorized by 5 U.S.C. 5901–5902, $24,100,000.

NATIONAL RAILROAD PASSENGER CORPORATION OFFICE OF INSPECTOR GENERAL

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General for the National Railroad Passenger Corporation to carry out the provisions of the Inspector General Act of 1978, as amended, $19,311,000: *Provided*, That the Inspector General shall have all necessary authority, in carrying out the duties specified in the Inspector General Act, as amended (5 U.S.C. App. 3), to investigate allegations of fraud, including false statements to the government (18 U.S.C. 1001), by any person or entity that is subject to regulation by the National Railroad Passenger Corporation: *Provided further*, That the Inspector General may enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, subject to the applicable laws and regulations that govern the obtaining of such services within the National Railroad Passenger Corporation: *Provided further*, That the Inspector General may select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office of Inspector General, subject to the applicable laws and regulations that govern such selections, appointments, and employment within Amtrak: *Provided further*, That concurrent with the President's budget request for fiscal year 2013, the Inspector General shall submit to the House and Senate Committees on Appropriations a budget request for fiscal year 2013 in similar format and substance to those submitted by executive agencies of the Federal Government.

NATIONAL TRANSPORTATION SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the National Transportation Safety Board, including hire of passenger motor vehicles and aircraft; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS–15; uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902), $99,275,000, of which not to exceed $2,000 may be used for official reception and representation expenses. The amounts made available to the National Transportation Safety Board in this Act include amounts necessary to make lease payments on an obligation incurred in fiscal year 2001 for a capital lease.

NEIGHBORHOOD REINVESTMENT CORPORATION

PAYMENT TO THE NEIGHBORHOOD REINVESTMENT CORPORATION

For payment to the Neighborhood Reinvestment Corporation for use in neighborhood reinvestment activities, as authorized by the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8101–8107), $135,000,000, of which $5,000,000 shall be for a multi-family rental housing program: *Provided*, That in addition, $65,000,000 shall be made available until expended to the Neighborhood Reinvestment Corporation for mortgage foreclosure mitigation activities, under the following terms and conditions:

(1) The Neighborhood Reinvestment Corporation (''NRC'') shall make grants to counseling intermediaries approved by the Department of Housing and Urban Development (HUD) (with match to be determined by the NRC based on affordability and the economic conditions of an area; a match also may be waived by the NRC based on the aforementioned conditions) to provide mortgage foreclosure mitigation assistance primarily to States and areas with high rates of defaults and foreclosures to help eliminate the default and foreclosure of mortgages of owner-occupied single-family homes that are at risk of such foreclosure. Other than areas with high rates of defaults and foreclosures, grants may also be provided to approved counseling intermediaries based on a geographic analysis of the Nation by the NRC which determines where there is a prevalence of mortgages that are risky and likely to fail, including any trends for mortgages that are likely to default and face foreclosure. A State Housing Finance Agency may also be eligible where the State Housing Finance Agency meets all the requirements under this paragraph. A HUD-approved counseling intermediary shall meet certain mortgage foreclosure mitigation assistance counseling requirements, as determined by the NRC, and shall be approved by HUD or the NRC as meeting these requirements.

(2) Mortgage foreclosure mitigation assistance shall only be made available to homeowners of owner-occupied homes with mortgages in default or in danger of default. These mortgages shall likely be subject to a foreclosure action and homeowners will be provided such assistance that shall consist of activities that are likely to prevent foreclosures and result in the long-term affordability of the mortgage retained pursuant to such activity or another positive outcome for the homeowner. No funds made available under this paragraph may be provided directly to lenders or homeowners to discharge outstanding mortgage balances or for any other direct debt reduction payments.

(3) The use of Mortgage Foreclosure Mitigation Assistance by approved counseling intermediaries and State Housing Finance Agencies shall involve a reasonable analysis of the borrower's financial situation, an evaluation of the current value of the property that is subject to the mortgage, counseling regarding the assumption of the mortgage by another non-Federal party, counseling regarding the possible purchase of the mortgage by a non-Federal third party, counseling and advice of all likely restructuring and refinancing strategies or the approval of a work-out strategy by all interested parties.

(4) NRC may provide up to 15 percent of the total funds under this paragraph to its own charter members with expertise in foreclosure prevention counseling, subject to a certification by the NRC that the procedures for selection do not consist of any procedures or activities that could be construed as an unacceptable conflict of interest or have the appearance of impropriety.

(5) HUD-approved counseling entities and State Housing Finance Agencies receiving funds under this paragraph shall have demonstrated experience in successfully working with financial institutions as well as borrowers facing default, delinquency and foreclosure as well as documented counseling capacity, outreach capacity, past successful performance and positive outcomes with documented counseling plans (including post mortgage foreclosure mitigation counseling), loan workout agreements and loan modification agreements. NRC may use other criteria to demonstrate capacity in underserved areas.

(6) Of the total amount made available under this paragraph, up to $3,000,000 may be made available to build the mortgage foreclosure and default mitigation counseling capacity of counseling intermediaries through NRC training courses with HUD-approved counseling intermediaries and their partners, except that private financial institutions that participate in NRC training shall pay market rates for such training.

(7) Of the total amount made available under this paragraph, up to 4 percent may be used for associated administrative expenses for the NRC to carry out activities provided under this section.

(8) Mortgage foreclosure mitigation assistance grants may include a budget for outreach and advertising, and training, as determined by the NRC.

(9) The NRC shall continue to report bi-annually to the House and Senate Committees on Appropriations as well as the Senate Banking Committee and House Financial Services Committee on its efforts to mitigate mortgage default.

UNITED STATES INTERAGENCY COUNCIL ON HOMELESSNESS

OPERATING EXPENSES

For necessary expenses (including payment of salaries, authorized travel, hire of passenger motor vehicles, the rental of conference rooms, and the employment of experts and consultants under section 3109 of title 5, United States Code) of the United States Interagency Council on Homelessness in carrying out the functions pursuant to title II of the McKinney-Vento Homeless Assistance Act, as amended, $3,640,000.

TITLE IV

GENERAL PROVISIONS—THIS ACT

SEC. 401. Such sums as may be necessary for fiscal year 2012 pay raises for programs funded in this Act shall be absorbed within the levels appropriated in this Act or previous appropriations Acts.

SEC. 402. None of the funds in this Act shall be used for the planning or execution of any program to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings funded in this Act.

SEC. 403. None of the funds appropriated in this Act shall remain available for obligation beyond the current fiscal year, nor may any be transferred to other appropriations, unless expressly so provided herein.

SEC. 404. The expenditure of any appropriation under this Act for any consulting service through procurement contract pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 405. Except as otherwise provided in this Act, none of the funds provided in this Act, provided by previous appropriations Acts to the agencies or entities funded in this Act that remain available for obligation or expenditure in fiscal year 2012, or provided from any accounts in the Treasury derived by the collection of fees and available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds that:

(1) creates a new program;

(2) eliminates a program, project, or activity;

(3) increases funds or personnel for any program, project, or activity for which funds have been denied or restricted by the Congress;

(4) proposes to use funds directed for a specific activity by either the House or Senate Committees on Appropriations for a different purpose;

(5) augments existing programs, projects, or activities in excess of $5,000,000 or 10 percent, whichever is less;

(6) reduces existing programs, projects, or activities by $5,000,000 or 10 percent, whichever is less; or

(7) creates, reorganizes, or restructures a branch, division, office, bureau, board, commission, agency, administration, or department different from the budget justifications submitted to the Committees on Appropriations or the table accompanying the explanatory statement accompanying this Act, whichever is more detailed, unless prior approval is received from the House and Senate Committees on Appropriations: *Provided*, That not later than 60 days after the date of enactment of this Act, each agency funded by this Act shall submit a report to the Committees on Appropriations of the Senate and of the House of Representatives to establish the baseline for application of reprogramming and transfer authorities for the current fiscal year: *Provided further*, That the report shall include:

(A) a table for each appropriation with a separate column to display the President's budget request, adjustments made by Congress, adjustments due to enacted rescissions, if appropriate, and the fiscal year enacted level;

(B) a delineation in the table for each appropriation both by object class and program, project, and activity as detailed in the budget appendix for the respective appropriation; and

(C) an identification of items of special congressional interest: *Provided further*, That the amount appropriated or limited for salaries and expenses for an agency shall be reduced by $100,000 per day for each day after the required date that the report has not been submitted to the Congress.

SEC. 406. Except as otherwise specifically provided by law, not to exceed 50 percent of unobligated balances remaining available at the end of fiscal year 2012 from appropriations made available for salaries and expenses for fiscal year 2012 in this Act, shall remain available through September 30, 2013, for each such account for the purposes authorized: *Provided*, That a request shall be submitted to the House and Senate Committees on Appropriations for approval prior to the expenditure of such funds: *Provided further*, That these requests shall be made in compliance with reprogramming guidelines under section 405 of this Act.

SEC. 407. All Federal agencies and departments that are funded under this Act shall issue a report to the House and Senate Committees on Appropriations on all sole-source contracts by no later than July 30, 2012. Such report shall include the contractor, the amount of the contract and the rationale for using a sole-source contract.

SEC. 408. (a) None of the funds made available in this Act may be obligated or expended for any employee training that—

(1) does not meet identified needs for knowledge, skills, and abilities bearing directly upon the performance of official duties;

(2) contains elements likely to induce high levels of emotional response or psychological stress in some participants;

(3) does not require prior employee notification of the content and methods to be used in the training and written end of course evaluation;

(4) contains any methods or content associated with religious or quasi-religious belief systems or ''new age'' belief systems as defined in Equal Employment Opportunity Commission Notice N–915.022, dated September 2, 1988; or

(5) is offensive to, or designed to change, participants' personal values or lifestyle outside the workplace.

(b) Nothing in this section shall prohibit, restrict, or otherwise preclude an agency from conducting training bearing directly upon the performance of official duties.

SEC. 409. No funds in this Act may be used to support any Federal, State, or local projects that seek to use the power of eminent domain, unless eminent domain is employed only for a public use: *Provided*, That for purposes of this section, public use shall not be construed to include economic development that primarily benefits private entities: *Provided further*, That any use of funds for mass transit, railroad, airport, seaport or highway projects as well as utility projects which benefit or serve the general public (including energy-related, communication-related, water-related and wastewater-related infrastructure), other structures designated for use by the general public or which have other common-carrier or public-utility functions that serve the general public and are subject to regulation and oversight by the government, and projects for the removal of an immediate threat to public health and safety or brownsfield as defined in the Small Business Liability Relief and Brownsfield Revitalization Act (Public Law 107–118) shall be considered a public use for purposes of eminent domain.

SEC. 410. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriations Act.

SEC. 411. No part of any appropriation contained in this Act shall be available to pay the salary for any person filling a position, other than a temporary position, formerly held by an employee who has left to enter the Armed Forces of the United States and has satisfactorily completed his period of active military or naval service, and has within 90 days after his release from such service or from hospitalization continuing after discharge for a period of not more than 1 year, made application for restoration to his former position and has been certified by the Office of Personnel Management as still qualified to perform the duties of his former position and has not been restored thereto.

SEC. 412. No funds appropriated pursuant to this Act may be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c, popularly known as the ''Buy American Act'').

SEC. 413. No funds appropriated or otherwise made available under this Act shall be made available to any person or entity that has been convicted of violating the Buy American Act (41 U.S.C. 10a–10c).

SEC. 414. None of the funds made available in this Act may be used for first-class airline accommodations in contravention of sections 301–10.122 and 301–10.123 of title 41, Code of Federal Regulations.

SEC. 415. None of the funds made available in this Act may be used to purchase a light bulb for an office building unless the light bulb has, to the extent practicable, an Energy Star or Federal Energy Management Program designation.

SEC. 416. None of the funds made available in this Act may be used to establish, issue, implement, administer, or enforce any prohibition or restriction on the establishment or effectiveness of any occupancy preference for veterans in supportive housing for the elderly that:

(1) is provided assistance by the Department of Housing and Urban Development; and

(2) is or would be located on property of the Department of Veterans Affairs; or

(3) is subject to an enhanced use lease with the Department of Veterans Affairs.

SEC. 417. None of the funds made available under this Act or any prior Act may be provided to the Association of Community Organizations for Reform Now (ACORN), or any of its affiliates, subsidiaries, or allied organizations.

SEC. 418. Concurrent with the issuance of any notice of funding availability or any other notice designed to solicit applications for a program through which grants or credit assistance are awarded through a competitive process, the Secretary of Transportation and the Secretary of Housing and Urban Development shall post on their Web sites information about such program, including, but not limited to, the goals of the program, the criteria that will be used in awarding grants or credit assistance, and the process by which applications will be selected for the award of a grant or credit assistance: *Provided*, That concurrent with the public announcement of grants or credit assistance to be awarded through such competitive program, the Secretary of Transportation and the Secretary of Housing and Urban Development shall post on their Web sites information on each applicant to be awarded a grant or credit assistance, including, but not limited to, the name and address of the applicant, the amount of the grant or credit assistance to be awarded, the amount of financing expected from other sources, and an explanation of how such award is consistent with program goals.

This Act may be cited as the ''Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2012''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs, be authorized to meet during the session of the Senate on October 13, 2011, at 10 a.m. to conduct a hearing entitled ''Addressing Potential Threats From Iran: Administration Perspectives on Implementing New Economic Sanctions One Year Later.''

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

COMMITTEE ON INDIAN AFFAIRS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on October 13, 2011, at 2:15 p.m. in room 628 of the Dirksen Senate Office Building.

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

COMMITTEE ON THE JUDICIARY

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Judiciary be authorized to meet during the session of the Senate, on October 13, 2011, at 10 a.m., in SD–226 of the Dirksen Senate Office Building, to conduct an executive business meeting.

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

COMMITTEE ON THE JUDICIARY

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Judiciary be authorized to meet during the session of the Senate, on October 13, 2011, at 2 p.m., in SD–226 of the Dirksen Senate Office Building, to conduct a hearing entitled ''Arbitration: Is It Fair When Forced?''

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. DURBIN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate, on October 13, 2011, at 2:30 p.m. hearing.

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

SUBCOMMITTEE ON GREEN JOBS AND THE NEW ECONOMY

Mr. DURBIN. Mr. President, I ask unanimous consent that the Subcommittee on Green Jobs and the New Economy of the Committee on Environment and Public Works be authorized to meet during the session of the Senate, on October 13, 2011, at 10 a.m., in Dirksen 406 to conduct a hearing entitled, ''Innovative Practices to Create Jobs and Reduce Pollution.''

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

PRIVILEGES OF THE FLOOR

Mr. REID. Mr. President, I ask unanimous consent that Nathan Engle, a fellow in my office, be granted floor privileges for the duration of the consideration of H.R. 2112, the agriculture appropriations bill.

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

UNANIMOUS CONSENT AGREEMENT—H.R. 2112

Mr. REID. Madam President, I ask unanimous consent that at 4 p.m., Monday, October 17, the Senate proceed to the consideration of Calendar No. 155, H.R. 2112—that is the Agriculture Appropriations Act for fiscal year 2012—that the committee amendment be withdrawn and that the chairman of the Appropriations Committee or his designee be recognized to offer amendment No. 738, which consists of the text of the withdrawn amendment as Division A, the text of S. 1572, Calendar No. 170, as Division B, and the

text of S. 1596, Calendar No. 177, as Division C; provided further, that H.R. 2596, as reported by the House Appropriations Committee, and Division C of amendment No. 738 be deemed House-passed text in H.R. 2112 for purposes of rule XVI; finally, that amendment No. 738 for the purposes of paragraph 1 of rule XVI be considered a committee amendment.

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

Mr. REID. I am going to give the Chair a written test on what I just read in a few minutes. OK.

The PRESIDING OFFICER. I will pass with flying colors.

MAKING A CORRECTION IN THE ENROLLMENT OF S. 1280

Mr. REID. Madam President, I ask unanimous consent that the Senate now proceed to the consideration of S. Con. Res. 31.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The bill clerk read as follows:

A concurrent resolution (S. Con. Res. 31) directing the Secretary of the Senate to make a correction in the enrollment of S. 1280.

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

Mr. REID. Madam President, I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

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

The concurrent resolution (S. Con. Res. 31) was agreed to, as follows:

S. CON. RES. 31

Resolved by the Senate (the House of Representatives concurring), That, in the enrollment of the bill (S. 1280) to amend the Peace Corps Act to require sexual assault risk-reduction and response training, the development of a sexual assault policy, the establishment of an Office of Victim Advocacy, the establishment of a Sexual Assault Advisory Council, and for other purposes, the Secretary of the Senate shall make the following corrections:

Amend section 8C of the Peace Corps Act, in the quoted material in section 2 of the bill, by adding at the end the following new subsection:

''(e) SUNSET.—This section shall cease to be effective on October 1, 2018.''.

Amend section 8D of the Peace Corps Act, in the quoted material in section 2 of the bill, by adding at the end the following new subsection:

''(g) SUNSET.—This section shall cease to be effective on October 1, 2018.''.

Amend section 8E of the Peace Corps Act, in the quoted material in section 2 of the bill—

(1) in subsection (c), by striking ''The President shall annually conduct'' and inserting ''Annually through September 30, 2018, the President shall conduct'';

(2) in subsection (d)—

(A) in subparagraph (A), by striking ''a biennial report'' and inserting ''a report, not later than one year after the date of the enactment of this section, and biennially through September 30, 2018,''; and

(B) in subparagraph (B), by striking ''not later than two years after the date of the enactment of this section and every three years thereafter'' and inserting ''not later than two years and five years after the date of the enactment of this section''; and

(3) by adding at the end the following new subsection:

''(e) PORTFOLIO REVIEWS.—

''(1) IN GENERAL.—The President shall, at least once every 3 years, perform a review to evaluate the allocation and delivery of resources across the countries the Peace Corps serves or is considering for service. Such portfolio reviews shall at a minimum include the following with respect to each such country:

''(A) An evaluation of the country's commitment to the Peace Corps program.

''(B) An analysis of the safety and security of volunteers.

''(C) An evaluation of the country's need for assistance.

''(D) An analysis of country program costs.

''(E) An evaluation of the effectiveness of management of each post within a country.

''(F) An evaluation of the country's congruence with the Peace Corp's mission and strategic priorities.

''(2) BRIEFING.—Upon request of the Chairman and Ranking Member of the Committee on Foreign Relations of the Senate or the Committee on Foreign Affairs of the House of Representatives, the President shall brief such committees on each portfolio review required under paragraph (1). If requested, each such briefing shall discuss performance measures and sources of data used (such as project status reports, volunteer surveys, impact studies, reports of Inspector General of the Peace Corps, and any relevant external sources) in making the findings and conclusions in such review.''.

Amend section 8I(a) of the Peace Corps Act, in the quoted material in section 2, by inserting ''through September 30, 2018,'' after ''annually''.

Strike section 8.

Redesignate sections 9 and 10 as sections 8 and 9, respectively.

Strike section 11.

CELEBRATING THE 10-YEAR COMMEMORATION OF THE UNDERGROUND RAILROAD MEMORIAL

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 293.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The bill clerk read as follows:

A resolution (S. Res. 293) celebrating the 10-year commemoration of the Underground Railroad Memorial, comprised of the Gateway to Freedom Monument in Detroit, Michigan, and the Tower of Freedom Monument in Windsor, Ontario, Canada.

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

Mr. REID. Madam President, 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 related statements on this matter be printed in the RECORD.

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

The resolution (S. Res. 293) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 293

Whereas millions of Africans and their descendants were enslaved in the United States and the American colonies from 1619 through 1865;

Whereas Africans forced into slavery were unspeakably debased, humiliated, dehumanized, brutally torn from their families and loved ones, and subjected to the indignity of being stripped of their names and heritage;

Whereas tens of thousands of people of African descent silently escaped their chains to follow the perilous Underground Railroad northward towards freedom in Canada;

Whereas the Detroit River played a central role for these passengers of the Underground Railroad on their way to freedom;

Whereas, in October 2001, the City of Detroit, Michigan joined with Windsor and Essex County in Ontario, Canada to memorialize the courage of these freedom seekers with an international memorial to the Underground Railroad, comprising the Tower of Freedom Monument in Windsor and the Gateway to Freedom Monument in Detroit;

Whereas the deep roots that slaves, refugees, and immigrants who reached Canada from the United States created in Canadian society remain as tributes to the determination of their descendants to safeguard the history of the struggles and endurance of their forebears;

Whereas the observance of the 10-year commemoration of the Underground Railroad Memorial will be celebrated from October 19 through October 22, 2011;

Whereas the International Underground Railroad Monument Tenth Anniversary Planning Committee is pursuing the designation of an International Freedom Corridor and the nomination of the historic Detroit River as an International World Heritage Site;

Whereas the International Underground Railroad Monument Tenth Anniversary Planning Committee recognizes that a National Park Service special resources study may establish the national significance, suitability, and feasibility of an International Freedom Corridor;

Whereas the designation of an International Freedom Corridor would include the States of Michigan, Illinois, Ohio, Wisconsin, Missouri, Indiana, and Kentucky, the Detroit, Mississippi, and Ohio Rivers, which traverse portions of these States, and any other sites associated within this International Freedom Corridor;

Whereas a cooperative international partnership project is dedicated to education and research with the goal of promoting cross-border understanding as well as economic development and cultural heritage tourism;

Whereas, over the course of history, the United States has become a symbol of democracy and freedom around the world; and

Whereas the legacy of African Americans is interwoven with the fabric of democracy and freedom in the United States: Now, therefore, be it

Resolved, That the Senate celebrates the 10-year commemoration of the Underground Railroad Memorial, comprised of the Gateway to Freedom Monument in Detroit, Michigan and the Tower of Freedom Monument in Windsor, Ontario, Canada.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. REID. Madam President, I ask unanimous consent that on Monday, October 17, at 5:15 p.m., the Senate proceed to executive session to consider Calendar No. 271; that there be 15 minutes for debate equally divided in the usual form; that upon the use or yielding back of time, the Senate proceed to vote with no intervening action or debate on Calendar No. 271; the motion to reconsider be considered made and laid upon the table, with no intervening action or debate, and any related statements be printed in the RECORD; that the President be immediately notified of the Senate's action and the Senate then resume legislative session.

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

ORDERS FOR MONDAY, OCTOBER 17, 2011

Mr. REID. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 2 p.m. on Monday, October 17; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day; that following any leader remarks, the Senate be in a period of morning business until 4 p.m., with Senators permitted to speak therein for 10 minutes each; that at 4 p.m. the Senate proceed to H.R. 2112, the vehicle for the Agriculture, CJS, and Transportation appropriations bills, as provided under the previous order; further, that at 5:15 p.m., the Senate proceed to executive session under the previous order.

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

PROGRAM

Mr. REID. Madam President, I appreciate the courtesy of the Presiding Officer, the patience of the Chair and all the staff for working through this afternoon to get where we are. It will make next week go smoother.

The next rollcall vote will be at 5:30 on the confirmation of the Bissoon nomination.

ADJOURNMENT UNTIL MONDAY, OCTOBER 17, 2011, AT 2 P.M.

Mr. REID. Madam President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

Thereupon, the Senate, at 6:24 p.m., adjourned until Monday, October 17, 2011, at 2 p.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 13, 2011:

THE JUDICIARY

ALISON J. NATHAN, OF NEW YORK, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK.

SUSAN OWENS HICKEY, OF ARKANSAS, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF ARKANSAS.

KATHERINE B. FORREST, OF NEW YORK, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK.

DEPARTMENT OF STATE

SUNG Y. KIM, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF KOREA.