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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable SHERROD BROWN, a Senator from the State of Ohio.

PRAYER

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

Let us pray.

O give thanks to the Lord, for He is good; His steadfast love endures forever. (Psalm 118:1)

As we approach the August break, we thank You, Lord, for the physical, mental, and spiritual energy which enables our lawmakers to do their work. We praise You for the efforts of honorable men and women who relentlessly pursue good for all people. Thank You for the wise and patient leaders who seek to guide their parties to just and equitable decisions. Thank You also for the tireless labors of dedicated office and Senate staffs and for the pages who give indispensable support to the legislative process.

Father, we thank You that the Senate is a family and that in spite of our differences, we belong to You and to each other. For all of Your wonderful gifts to us, we give You praise.

We pray in Your great Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable SHERROD BROWN led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, August 1, 2008.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable SHERROD BROWN, a Senator from the State of Ohio, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RESERVATION OF LEADER TIME

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

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2009—MOTION TO PROCEED

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the motion to proceed to S. 3001, which the clerk will report by title.

The legislative clerk read as follows:

Motion to proceed to the bill (S. 3001) to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

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

Mr. REID. Mr. President, we are going to be on the Defense authorization bill during today's period of debate. Senators will be allowed to speak for up to 10 minutes each. That is the order. Is that order in effect now or do I need to ask consent for that?

The ACTING PRESIDENT pro tempore. The Senator is correct, the order is in effect now.

MEASURE PLACED ON THE CALENDAR—S. 3406

Mr. REID. Mr. President, S. 3406 is at the desk and is due for a second reading.

The ACTING PRESIDENT pro tempore. The clerk will read the title of the bill for the second time.

The legislative clerk read as follows:

A bill (S. 3406) to restore the intent and protections of the Americans with Disabilities Act of 1990.

Mr. REID. Mr. President, I object to any further proceedings with respect to the bill.

The ACTING PRESIDENT pro tempore. Objection is heard.

The bill will be placed on the calendar.

ANIMAL DRUG USER FEE AMENDMENTS OF 2008

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 6432.

The ACTING PRESIDENT pro tempore. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 6432) to amend the Federal Food, Drug, and Cosmetic Act to revise and extend the animal drug user fee program, to establish a program of fees relating to generic new animal drugs, to make certain technical corrections to the Food and Drug Administration Amendments Act of 2007, and for other purposes.

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

Mr. REID. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, that there be no further debate, and that any statements relating to the bill be printed in the RECORD.

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

The bill (H.R. 6432) was ordered to a third reading, was read the third time, and passed.

THE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the following items en bloc: Calendar Nos. 913 through 920.

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

The Senate proceeded to consider the bills en bloc.

Mr. REID. Mr. President, I ask unanimous consent that the bills be read a third time and passed en bloc, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to these measures be printed in the RECORD.

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

CEECEE ROSS LYLES POST OFFICE BUILDING

The bill (S. 3241) to designate the facility of the United States Postal Service located at 1717 Orange Avenue in Fort Pierce, Florida, as the ''CeeCee Ross Lyles Post Office Building,'' was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 3241

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CEECEE ROSS LYLES POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 1717 Orange Avenue in Fort Pierce, Florida, shall be known and designated as the ''CeeCee Ross Lyles Post Office Building''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the ''CeeCee Ross Lyles Post Office Building''.

DOCK M. BROWN POST OFFICE BUILDING

The bill (H.R. 4210) to designate the facility of the United States Postal Service located at 401 Washington Avenue in Weldon, North Carolina, as the ''Dock M. Brown Post Office Building,'' was ordered to a third reading, read the third time, and passed.

CHI MUI POST OFFICE BUILDING

The bill (H.R. 5477) to designate the facility of the United States Postal Service located at 120 South Del Mar Avenue in San Gabriel, California, as the ''Chi Mui Post Office Building,'' was ordered to a third reading, read the third time, and passed.

PRIVATE FIRST CLASS DAVID H. SHARRETT II POST OFFICE BUILDING

The bill (H.R. 5483) to designate the facility of the United States Postal service located at 10449 White Granite Drive in Oakton, Virginia, as the ''Private First class David H. Sharrett II Post Office Building,'' was ordered to a third reading, read the third time, and passed.

CORPORAL BRADLEY T. ARMS POST OFFICE BUILDING

The bill (H.R. 5631) to designate the facility of the United States Postal service located at 1155 Seminole Trail in Charlottesville, Virginia, as the ''Corporal Bradley T. Arms Post Office Building,'' was ordered to a third reading, read the third time, and passed.

KENNETH JAMES GRAY POST OFFICE BUILDING

The bill (H.R. 6061) to designate the facility of the United States Postal service located at 219 East Main Street in West Frankfort, Illinois, as the ''Kenneth James Gray Post Office Building,'' was ordered to a third reading, read the third time, and passed.

GERALD R. FORD POST OFFICE BUILDING

The bill (H.R. 6085) to designate the facility of the United States Postal service located at 42222 Rancho Las Palmas Drive in Rancho Mirage, California, as the ''Gerald R. Ford Post Office Building,'' was ordered to a third reading, read the third time, and passed.

JOHN P. GALLAGHER POST OFFICE BUILDING

The bill (H.R. 6150) to designate the facility of the United States Postal service located at 14500 Lorain Avenue in Cleveland, Ohio, as the ''John P. Gallagher Post Office Building,'' was ordered to a third reading, read the third time, and passed.

DESIGNATING SENATOR PRYOR AS ACTING PRESIDENT PRO TEMPORE

Mr. REID. Mr. President, I had the good fortune in the Senate of serving with David Pryor, the Senator from Arkansas. He was a member of the Finance Committee and other very responsible positions, including the Ethics Committee. He was, I believe, what the stereotype of a Senator should be. He worked hard and he is very smart. He was so easy to get along with. I do not think I have ever served with a better legislator in my life than David Pryor.

Unfortunately for Arkansas and our country, he was taken ill. He had a very severe heart attack and decided not to run for reelection. He is doing well. He is healthy. I talk to him on occasion. Whenever I go to Arkansas, I see him. But what a wonderful man to know.

The reason I mention that, fortunately for the people of Arkansas, his son MARK has replaced him. MARK has all the same characteristics as his dad. He is a man with a lot of humility. He works very hard. He knows the legislative process. He was attorney general of the State of Arkansas. He is an outstanding lawyer.

There were a lot of reasons we were able to complete that most significant legislation last night, the Consumer Product Safety Modernization Act. But it is the most sweeping improvement of the law that has taken place since the law was passed some 40 years ago. It was done under the direction of Senator INOUYE. But Senator INOUYE gives credit to MARK PRYOR who worked so hard to arrive at the solution he did, which was a piece of legislation that passed overwhelmingly in this body.

So, Mr. President, with that brief background, I ask unanimous consent that Senator PRYOR be designated as Acting President pro tempore of the Senate for the purpose of signing the conference report to accompany H.R. 4040, the Consumer Product Safety Modernization Act.

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

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

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

The legislative clerk proceeded to call the roll.

Mr. HATCH. 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.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2009—MOTION TO PROCEED—Continued

Mr. HATCH. Mr. President, what is the parliamentary state?

The ACTING PRESIDENT pro tempore. The Senate is on the motion to proceed to S. 3001, with Senators permitted to speak for up to 10 minutes.

Mr. HATCH. Thank you, Mr. President.

Will the Chair please let me know when 9 minutes has expired.

The ACTING PRESIDENT pro tempore. The Senator will be notified.

UNITED STATES ECONOMY

Mr. HATCH. Mr. President, yesterday the Government released the second quarter performance of the U.S. economy, and I am sorry to say the report looks dismal. I, along with the rest of Americans, am outraged that Congress will depart shortly for a 5-week recess without addressing the most pressing issue of this Congress: our ailing economy and in particular energy. During this past month, we have passed bills to provide $50 billion for support of international programs to combat HIV/AIDS, for Medicare, and to improve FISA. This past week, we finally passed a bill that addresses a sector of

our economy by revamping Fannie Mae and Freddie Mac. I certainly believe we can and should have done more than that.

In November of 2006, my party lost the majority in Congress, in both the House of Representatives and in the Senate. The Democrats ran on a platform of change, what they called ''A New Direction For America.'' The Democrats pledged to push forward a 100-hour agenda that touted a change in ethics, an increase in the minimum wage, and a rollback in subsidies for the oil and gas industry. Look where that ''direction'' has led us. The price of energy has skyrocketed, the housing market has deteriorated, and the unemployment rate is on the rise. Across the Nation, we are feeling the effects of the crumbling economy. Yesterday, Bennigans and Steak & Ale restaurants have filed for bankruptcy, and Starbucks has recently announced the closing of 600 stores across America. It is time for the majority to wake up and smell the coffee.

Viewing this chart, it is no wonder why the congressional approval ratings are at an alltime low, at 12 percent. Congressional approval: 12 percent. Congress has failed to act when Americans need it the most.

At the end of 2006, when the Republicans controlled Congress, the average retail price of regular unleaded gasoline, according to the Energy Information Administration, was $2.59. Look where it is today.

In June of this year, the average price of regular unleaded gasoline hit an average of $4.06. Our friends on the other side have done absolutely nothing to address the rising costs of energy, and we are going home without having done so. We have proposed increasing the supply off our coasts, extending the expiring energy tax incentives, and reducing our dependence on foreign oil by providing alternative energy resources. The majority refuses to provide any solid bipartisan solutions because they keep insisting on their perverse let's-grow-the-Government, pay-as-you-go rules and combating the oil and gas industry as though they are the evil cause of everything. The fact is the Government does not produce one drop of oil. It does not drill one exploration well. It does not refine even 1 gallon of gasoline, and it doesn't build 1 foot of pipeline. Somehow, though, my colleagues on the other side of the aisle think every answer to dropping gas prices is more Government—more Government moratoria on drilling, more taxes on energy companies, more regulation of the commodity markets, more moratoriums on the development of oil shale, where we have somewhere between 800 billion and 2 trillion barrels of oil that can be recovered. It is doable. Estonia has been doing it for the last 80 years. Brazil has been doing it for the last three decades. We can do it, but there is a moratorium that doesn't expire until September, and now the Democrats want to put another moratorium on it—just on preparing the rules pursuant to which we can develop these vast resources that would help bring prices down. It wouldn't happen overnight, but I tell you one thing, if we went and tried to do all these things and we announced we were going to do them, I believe gas prices would automatically come down quite a bit more than they are right now.

This past week, the majority leader brought a bill to the floor to curtail oil price speculation, and while this was a start, my party tried to amend this bill to provide real solutions, ranging from expanding offshore drilling to boosting oil shale production. We were prevented from offering these various amendments, which was an opportunity to increase energy supply and to send the rest of the world a message that we are going to get serious about helping ourselves instead of sending $700 billion every year off some shore for offshore oil.

Across the Capitol, the House refuses to even bring up legislation involving offshore drilling. I do not know how I can return home to my home State of Utah and explain to constituents such as Bill Howard, a farmer who has to increase the price of his cattle and hogs to combat fuel costs, that we cannot do anything about the soaring gas prices unless it is paid for and hurts the oil and gas industry. Americans need affordable energy now.

If we look at the results of Democratic policies on job growth in our country, we are met with the same disappointment. Here is where we are. The unemployment rate in 2006 was 4.4 percent. Today it is up to 5.5 percent.

Less jobs means people spend less. When we spend less, companies start cutting back, laying off employees, and reducing employee salaries. This causes us to spend even less and the vicious economic cycle continues. We need to put more money back into the taxpayers' pockets over a long period of time in order to create a virtuous economic cycle. Among the tax extenders bill, which has failed to pass the Senate again and again, is the research tax credit. Seventy percent of research tax credit dollars are used for wages of R&D employees. That is creating jobs. I have been the champion of the R&D tax credit, along with Senator BAUCUS, for years.

We should provide tax relief not through economic stimulus packages or on a year-to-year basis but over a long period of time so the taxpayers can depend on this relief. That is why it is so important that when we talk about economic stimulus, we should look at solutions rather than rebate checks and bailouts, such as repealing the alternative minimum tax and making certain tax cuts permanent such as the research tax credit.

Looking toward the housing market, we still are puzzled why the majority has not provided solutions to help the economy. We have been hit hard by the housing market in my home State. St. George, in the southwestern part of Utah, and Provo, UT, were among the top ten fastest-growing metro areas in the United States between 2000 and 2006, with a growth of 39.8 percent and 25.9 percent respectively. As you can see, our economy has all kinds of foreclosures; in Utah we are up to 141 percent. That is twice the national increase from a year ago.

Last week, my friends on the other side of the aisle pushed through a housing bill that some estimate will provide a temporary financial housing lifeline by benefiting only 13 percent of the estimated 300,000 homeowners who will likely lose their homes in the next year. I supported earlier versions of the bill, but as it moved through the process and took on new provisions, my reservations grew. There is more to be said about the bill than I have time for now, but I have a statement in the RECORD on the subject. Let me say I think too many people and organizations that do not deserve it will be bailed out by what is now housing law.

I am also concerned that some of the provisions in the bill are shortsighted. For example, we created a new regulator for Fannie Mae and Freddie Mac, which is fine, but then we created what could possibly become a huge taxpayer-funded backstop, to put it nicely. Some have proposed that we cut the Government's ties to Fannie and Freddie, make them truly private companies, and incentivize more competition. Maybe we need to start the discussion now so taxpayers are not on the hook should future crises arise. We are on the brink of a recession and we need leadership.

The Democrats' ''New Direction For America'' has led us down a road to economic hardship and Americans deserve to have the economy driving on all cylinders. With the government-sponsored housing enterprises, high energy and food prices, and the instability of financial institutions, we are in a state of economic slowdown. But there is hope.

Much like today, when I came to the Senate over 30 years ago, the unemployment rate was rising, inflation was accelerating, and the GDP was beginning to decline. The economy was a major problem facing Americans. In response, we provided long-term solutions to our ailing economy by lowering taxes and increasing investment and growth. While the economy today is bleak, I believe there is hope because we have been here before. However, I do not know why the majority has not addressed this dire situation before adjourning.

There are some real problems facing the American economy, and together we can deal with them.

The ACTING PRESIDENT pro tempore. The Senator has 1 minute remaining.

Mr. HATCH. Thank you, Mr. President.

Most of these problems are self-inflicted, due to some major financial

mistakes in our country. Congress has passed some legislation aimed at improving our economy, but these short-term, bandaid solutions will eventually exacerbate the increasing deficit, and we will find ourselves back in the same situation. More spending certainly is not the answer.

When we return from our August recess, I encourage Congress to debate how we can fix our ailing economy. I believe we can take steps toward reducing unemployment, slowing inflation, and increasing investment and growth. I also believe we need to look at reforming our Tax Code. Our tax system has become burdensome and overly complicated. It discourages investment at a time when we desperately need it most. For too long we have delayed addressing our economy, and we owe a lot better service to our fellow Americans.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island is recognized.

Mr. WHITEHOUSE. I ask unanimous consent to speak for 10 minutes as in morning business.

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

OIL COMPANY PROFITS

Mr. WHITEHOUSE. Let me begin by saying, as we leave for our August recess very shortly, what a pleasure it has been for me to serve with the distinguished Senator from Utah on the Judiciary Committee during these first months of my first term in this body. I would respond to what he has said by suggesting that if he and his colleagues would actually let us lead, we would be able to solve a lot of the problems he discussed and that were indicated on those graphs. However, instead of letting us lead, they have embarked on a strategy of creating gridlock in this institution with—I think at this point we are at 92 or more filibusters—which is the world record in the history of this country—and climbing. I think what has happened to this body is my colleagues on the other side have made the decision that the record of George Bush is hopeless, the Republican message is shot, and their only salvation is to call down a pox on both our Houses and try to disable this institution, try to prevent us from doing essentially anything. It also has the added benefit of allowing the Executive more leeway, and it confers more power on George Bush, which I think is a mistake, given the way the record has shown his judgments have worked out.

For instance, take a look at what has happened in the Bush economy every day and getting worse and worse. Since George Bush and DICK CHENEY took office in 2001, wages in America have remained stagnant, as the very distinguished Senator from Ohio knows very well. Wages in America remain stagnant, oil and gas prices have risen sharply, and troubles in the housing market have made it harder and harder for families to stay in their homes. One would not have thought very long ago that America was a country in which tens of thousands of Americans would be thrown out of their own homes, but there we are.

Even those well off enough to own stock have seen the consequences of the Bush economy. In the Clinton years, the Dow Jones industrial average climbed 129 percent. In the Bush years, it has climbed exactly 0.7 percent. I ask my colleagues on the other side of the aisle whether they think their investor friends would prefer 129 percent capital gains and then paying a fair tax on those capital gains or whether they would prefer having big fights about what the capital gains tax rate is, but nobody makes any money.

While American families and American workers struggle in the Bush economy, there is one special, favored industry that is laughing all the way to the bank. Eight years of two oilmen in the White House has brought over $4-a-gallon gasoline for American consumers and absolutely grotesque profits for the biggest oil companies.

Yesterday, once again, the largest of these international giants—ExxonMobil—announced recordbreaking profits. ExxonMobil's second-quarter profits were the highest in the company's history. They were the highest in the history of the entire oil industry. In fact, Exxon's $11.7 billion profits for this last quarter were the highest corporate profits in the history of the United States. These profits, indeed, are the highest in the history of the universe as we know it.

Think about that: $11.7 billion in just 3 months. The U.S. Department of Transportation estimates that there are 250 million passenger vehicles in the United States. Exxon's $11.7 billion second-quarter profits amount to a quarterly tax of $47 on every car and truck in the country. That is just for one quarter. If you have ever wondered where the $60 or the $80 or even the $100 that it might cost to fill your tank goes, take a look at this. Gas prices are definitely going up; there is no doubt about that. We all experience the pain at the pump. But compared to how gas prices are going up, look at what is happening to oil company profits. As gas prices have risen, oil company profits have soared. If Exxon continues to reap profits at this level, in 2008 alone, you will pay for every car a $188 oil profits fee to ExxonMobil per car—$188 on every car in America—for the profit.

That is not counting the hundreds of billions of dollars raked in by the four other major international oil companies doing business in our country.

We are facing a true energy crisis. Instead of working with us to solve it, our colleagues on the other side of the aisle continue to fight for oil company profits.

Drilling off of our pristine coasts—and I come from the ocean State of Rhode Island—won't produce a drop of oil for a decade and won't significantly lower gas prices even then. These facts have no affect on our colleagues. Make no mistake about it, more drilling means higher profits for Exxon, Shell, BP, and especially for DICK CHENEY's former employer, Halliburton, which provides drilling products and services.

Exxon is committed to an oil economy that has no future for this country. They earned $11.7 billion in profits in the last 3 months, but in the 4 years between 2003 and 2007, Exxon spent just $20 million on research and development of alternative and renewable transportation fuel technologies. That is $20 million in 4 years, which is $5 million a year. That $5 million a year is $1.25 million a quarter. If you compare $1.25 million a quarter to $11.7 billion in profits, what you find out is that for every $10,000 in profit ExxonMobil makes, it spends $1 on alternative fuels. I am sure that in Ohio the Presiding Officer is seeing the same advertisements we are seeing in Rhode Island—wonderful Exxon ads with scientists and molecules, telling us how they are investing in the future. But it is $1 for every $10,000 they put in their pockets.

A recent Wall Street Journal article reported that the big oil companies spent $52.5 million on advertisements to burnish their images in the first quarter of the year. That is an annualized rate of $200 million in ads. Of course, many of these environmental ads say: We are green now, just watch us. Well, if you assume that of that $52.5 million, a quarter of it was Exxon, that is $12.5 million. If you assume that just a quarter of that 12.5 was spent on green ads and the rest on other stuff, that is $3 million. That means they spend three times as much advertising their green research as they do actually doing their green research. It is the biggest sham in the world.

I hope when Americans see these ads in magazines and elsewhere they know they are being had. It is $1 in research, $3 in advertising about it, and $10,000 in profits. That is the ratio. That is not a ratio anybody should be very proud of. If only Exxon and the other oil giants would devote some of their advertising budget to R&D, then we might be better off. We don't need sham solutions. We need results.

Yesterday, I signed on to a letter authored by our assistant majority leader, Senator DURBIN of Illinois, to request of President Bush to release about 10 percent—or 70 million barrels—from the Strategic Petroleum Reserve. That sale would immediately lower gas prices and generate over $8 billion, which is money that could be used to invest in alternative sources of energy for real—not the phony show ExxonMobil is putting on—so that we can finally move away from our oil-addicted economy. But so far, no action. Indeed, yesterday, we tried to pass a Defense authorization bill to support our troops in the field, in harm's way. The Republicans voted against the bill, abandoning our troops for big oil. Big

oil is making big money, and that is the Republicans' priority. I urge President Bush to end the rhetoric, put the troops first, get off of big oil's wagon, and let's get together to solve this problem for real.

I thank the chair and yield the floor.

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

FAILURE OF LEADERSHIP

Mr. MCCONNELL. Mr. President, all across America today, people are looking to Capitol Hill with astonishment. They are wondering how it is even possible that lawmakers who have been hearing from their constituents for months about the burden of record-high gas prices could fail to work out a sensible response.

I don't blame them. High gas prices have triggered a crisis in American homes and in the broader economy, and the American people have a right to expect their elected representatives to do something about it.

Every crisis is a call for leadership, and this one was no different. This was an opportunity for the Democrats who control Congress to demonstrate courage and resolve. They squandered it. In their hunt for more seats in Congress and control of the White House, they took the path of least resistance. They decided that they could increase their hold on Congress by avoiding tough votes, and then blaming the mess that followed on a party that wasn't even in charge.

While Republicans were working out a legislation solution that addressed high gas prices head on, Democrats embarked on a concerted effort of pointing fingers and casting blame. Americans were looking for answers, and the Democrat answer was to make everyone accountable but themselves.

First came the energy producers, who were threatened with higher taxes that would have passed along to consumers, making the problem worse. Then came the foreign oil producers, who were threatened with lawsuits unless they increased production, even though America sits on massive energy reserves that dwarf their own.

Finally, it was the speculators. Citing the testimony of a lawyer whose previous statements on energy provoked a stinging bipartisan rebuke, the Democrats claimed that writing a few new regulations for speculators would solve the energy crisis. Republicans agree that we need greater transparency in the market and more cops on the beat. But the notion that speculators alone have led to a dramatic surge in gas prices is, according to every serious person, completely and totally absurd.

The chairman of the Federal Reserve has rejected the idea that speculators alone were the cause of the oil shock. Warren Buffett, a prominent Democrat and perhaps the most successful investor of our generation, has said speculators alone are not the problem. The 27-member International Energy Agency said speculators alone are not the problem. T. Boone Pickens, who has been cited by both sides in this debate, has said unequivocally that speculators alone were not the problem.

When asked about high gas prices, all the experts seem to agree on two things: first, that speculators alone are not the problem. And second, that the high price of gas is primarily the result of increased demand and static supply. Increase supply, and the price of gas will go down. Keep it static and prices will continue to rise. That is why even the liberal New York Times derided the Democrats' speculators-only approach as a ''misbegotten plan.''

Republicans didn't invent the law of supply and demand. It's as old as commerce itself. And it has the virtue of being perfectly straightforward: any serious proposal for bringing down high gas prices would have to increase supply. And any serious proposal that aims to decrease our dependence on Middle East oil would have to increase supply here at home.

Every expert in America tells us that Americans will be dependent on fossil-fuels for decades to come. And until the day when we're all plugging in our cars or using alternative fuels, Americans can't be expected to shoulder the crushing burden of ever increasing gas prices. Congress has a responsibility to act, and that action must involve a comprehensive approach.

This is why Republicans put together a solution to this crisis that seeks, first of all, to accelerate the day when America will no longer be dependent on foreign sources of oil. We do this in our plan by addressing not only the principal cause of rising fuel prices—insufficient supply—but also by promoting new energy technologies, such as plug-in hybrid cars and trucks.

We heard the concerns of the American people, brought together the best ideas from both sides of the aisle, and pressed forward, confident that here was a solution that would be embraced by Americans and acceptable to a majority in Congress who could claim shared credit for the result. But, in the end, the Democrat Leadership showed it would rather cast blame than share success.

Americans are wondering why the Democrat Leadership voted to leave town last night without proposing a comprehensive solution of their own to $4-a-gallon gasoline. And they deserve an honest answer. The moment that gas prices became a major issue here in Washington, Democrats started to build a protective blockade around their Presidential nominee.

Rather than come up with a comprehensive solution that would do something to lower the price of gas, they set out to insulate their candidate from ever having to take a difficult vote on the issue. They have done this because their nominee opposes expanding the domestic energy supply. Recall that his initial response to high energy costs was that Americans would have to learn to turn their air conditioners down and consume fewer calories.

He has stated publicly that high gas prices are only a problem because America didn't have enough time to adjust to them. And just this week the junior Senator from Illinois unveiled his own comprehensive solution to the high price of gas: ''We could save all the oil that they're talking about getting off drilling,'' he said, ''If everybody was just inflating their tires and getting regular tune-ups.''

This is the proposal of the man that Democrats in Congress want to lead us through the Nation's energy crisis: regular tune-ups. This is the answer the junior Senator from Illinois has proposed to the patients at the Woodland Dialysis Center in Elizabethtown, KY, who are now limiting their treatments because they can't afford the cost of getting to them. This is Senator OBAMA's answer to $4-a-gallon gas: issue some new regulations and go to Jiffy Lube.

Add it to the growing list of laughably inadequate proposals that our Democrat friends have brought forward over the last few months. Some of them wanted to sue foreign countries as a way of forcing them to open up their supplies. Others proposed tax incentives for riding bicycles to work. But Senate Democrats really outdid themselves earlier this summer when they showed off a two-seat, electric-powered Tessla Roadster. It gets excellent mileage, and any American family can buy one of its own for a mere $109,000. These are the kinds of solutions we have heard from the other side.

Over the last few weeks, the time for real action arrived. And when it did, the Democratic leadership blocked and stalled every attempt to advance a real solution to the energy crisis. They canceled appropriations hearings out of fear that a deep-sea exploration amendment to lower gas prices would be offered. They offered a speculation-only bill, which no serious person thinks is in itself the answer to $4-a-gallon gas. And then over the last 7 days, they tried to take us off the issue of high gas prices seven times. Seven times they have tried to take us off the issue of high gas prices, taunting Republicans for standing on principle rather than taking the bait. In every case, Republicans refused to turn their backs on the people at the pump.

These last few weeks were a time for decision, and the Democrats made theirs. When Americans demanded action, the Democrats played games. They changed the topic so the man they want to lead our country would not have to make a public decision about high gas prices.

Some on the other side may think this kind of behavior is acceptable. They might think it makes sense to block the Senate minority from offering a balanced solution to high gas

prices in order to protect one Senator and the 20 percent of Americans who think we should not use more energy from American soil. We couldn't disagree more.

When faced with a crisis, the Democratic leadership opted instead to follow the political playbook of the senior Senator from New York who recently told a reporter that Democrats should wait until after Inauguration Day—when he hopes to see a Democrat in the White House—before doing anything about high gas prices.

This is precisely the kind of statement that frustrates the American people. They have waited for a solution long enough. They should not have to wait another day.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

MIDWESTERN DISASTER RELIEF

Mr. GRASSLEY. Mr. President, for the benefit of leaders' offices, after I am done speaking about the flood situation in Iowa, I have been asked by the leader to make a unanimous consent request in regard to E-Verify. So I want to notice the offices about what I am going to do. It will be down the road, in half an hour or so.

Mr. President, last night I came to the floor to ask for unanimous consent on the tax bill we referred to as the Midwest flood disaster tax relief package. I was denied unanimous consent to bring that up. I did not make a long justification for the necessity of doing that, but I wish to speak to that point now. I am not going to further ask unanimous consent the same as I did last night; I am just going to speak about why I did it last night and why it was essential.

There is one thing I want to put in the RECORD at this point, and it is in regard to one of the points that was made by the Senator from Illinois last night, Mr. DURBIN, the Democratic whip. He said one of the reasons for denying my request for the tax relief package I am talking about for flood victims in the Midwest is because similar provisions were contained in S. 3335, the Jobs, Energy, Families, and Disaster Relief Act of 2008, and that bill did not get 60 votes. Obviously, it didn't get 60 votes for the reason a lot of other bills have not gotten 60 votes on the floor of the Senate: We in the minority want to stay on the No. 1 problem affecting this country; that is, the high cost of gasoline and the energy crisis that is facing the Nation. We want the majority party to give us opportunities to offer amendments to increase the supply of energy in this country as opposed to paying $140 a barrel to buy oil and import it from overseas, giving money to nations that want to train terrorists to kill Americans. That is the reason S. 3335 did not get 60 votes. So we are technically on the Energy bill.

But one of the things he said about that bill was to leave the impression that S. 3335 did everything that needs to be done for the disaster relief in the Midwest, and it doesn't, and I made that point last night, so I am not going to repeat that.

But even if S. 3335 had passed, we had previously had a Statement of Administration Policy, and I am only going to quote one sentence from a longer Statement of Administration Policy that I am going to put in the RECORD, and that sentence is this: ''However, due to other objections to the bill, should it be presented to the President in its current form, his senior advisers would recommend a veto.'' So I think that when we are under a situation where we have the trauma of floods and people being homeless because of the flooding situation in the Midwest, it doesn't do much good to pass a piece of legislation that is going to be vetoed by the White House anyway.

The point I was trying to make last night is that we shouldn't be adjourning for our summer August break and not taking care of things in the Midwest the very same way we took care of the situation for New Orleans caused by Katrina. Of course, the point is that the legislation we seek for the Midwest is the same as the legislation we sought and we actually accomplished for New Orleans.

Mr. President, I ask unanimous consent to have printed in the RECORD the full Statement of Administration Policy from which I quoted.

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

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,

Washington, DC, July 30, 2008.

STATEMENT OF ADMINISTRATION POLICY

S. 3335—JOBS, ENERGY, FAMILIES, AND DISASTER RELIEF ACT OF 2008

The Administration supports responsible and timely alternative minimum tax (AMT) relief as proposed in the President's Budget. Congress should act quickly to protect 26 million American taxpayers from an unwelcome tax increase and to avoid repeating the unnecessary administrative complexity caused by congressional delay in 2007. In addition, the Administration supports the extension of the tax credit for research and experimentation (R&E) expenses, incentives for charitable giving, subpart F active financing and look-through exceptions, and the new markets tax credit. In its FY 2009 Budget, the Administration proposed that several of these provisions be made permanent, including the R&E tax credit. However, due to other objections to the bill, should it be presented to the President in its current form, his senior advisors would recommend a veto.

The Administration strongly supports continuation of tax incentives for renewable energy, and in fact the President recently proposed a more effective approach that would reform today's complicated mix of incentives to make the commercialization and use of new, lower emission technologies more competitive. The President's proposal would consolidate this mix into a single expanded program that would be carbon-weighted, technology-neutral, and long-lasting. This policy would make lower emission power sources less expensive relative to higher emission sources while taking into account our Nation's energy security needs. It would take the government out of picking technology winners and losers in this emerging market. And it would provide a positive and reliable market signal for technology investment and investment in domestic manufacturing capacity and infrastructure.

Overall, the Administration does not believe that efforts to avoid tax increases on Americans need to be coupled with provisions to increase revenue. Although the Senate has avoided pairing AMT relief with tax increases, the bill contains a host of objectionable provisions. The Administration strongly opposes the provision in the bill that would subject U.S. companies to continued double taxation by further delaying the effect of new rules for allocating worldwide interest for foreign tax credit purposes. The Administration also strongly opposes the provision in the bill that would treat U.S. citizens with deferred compensation from certain employers—in all industries—more unfavorably than other U.S. citizens. Together, these provisions would increase tax burdens, undermine the competitiveness of U.S. workers and businesses, and could have adverse effects on the U.S. economy. The Administration also opposes the continued expansion of tax-credit bonds and the reinstatement of the exclusion from tax of amounts received under qualified group legal services plans. The Administration urges Congress to eliminate all such provisions from the final bill.

The Administration also strongly opposes the provision in the bill to increase cash balances in the Highway Account of the Highway Trust Fund by transferring $8 billion from the General Fund. It is a longstanding principle that highway construction and maintenance should be funded by those who use the highway system. Instead, this provision is both a gimmick and a dangerous precedent that shifts costs from users to taxpayers at large. Moreover, the provision would unnecessarily increase the deficit and would place any hope of future, responsible constraints on highway spending in jeopardy. This provision is unnecessary, because the Administration has proposed a responsible alternative that protects taxpayers.

Finally, the Administration objects to a budget gimmick in the bill that would raise revenues by modifying the tax treatment of deferred compensation over the current budget window, but allow this provision to expire so that it, like the new rules for allocating worldwide interest for foreign tax credit purposes, will return to be available as a ''revenue-raiser'' in next year's ten-year budget window. These types of gimmicks, done for so-called ''pay as you go'' reasons, harm the integrity of the tax code and increase uncertainty for taxpayers.

Mr. GRASSLEY. Mr. President, before I speak to the point, just so you know, in Iowa the flood situation is very much in the headlines. I think one of the problems we are having in the Midwest, in getting Congress to pay attention to the problems that remain from the flooding of June, is that it is not constantly on television. It is not on television all the time. Of course, for 2 months, 3 months, the situation

in New Orleans was constantly on television, and Congress responded.

Mr. President, I see the whip here, and maybe I said something to which he wants to react. If he does, I would be happy to yield for that purpose.

Mr. DURBIN. I will wait until the Senator has completed. I would like to make a statement.

Mr. GRASSLEY. Anyway, we have here in the Des Moines Register a headline that says, ''Storm Hit One in Five School Districts,'' and then it has reports on how much it is going to cost to fix the schools. We have another headline here that says, ''At Least $30 Million Needed to Repair Roads,'' as an example.

Then we have a statement that was printed in the Davenport newspaper that was written by Charlotte Eby. I am not going to quote the whole thing. I just want to speak to parts of it.

While Congress puts off consideration of the flood relief bill, it looks like the Iowa legislature will be rolling up its sleeves to help out Iowa flood victims.

It speaks about a growing sense that the Iowa legislature has to step in.

The delay of a Federal response by Congress could also push back the State response, a development that left Iowans angry.

It quotes the minority leader of the Iowa senate. Ron Wieck, Republican of Sioux City, said action cannot wait, and if that means a special session, he is for it. It doesn't quote him, but it says he is appalled that Congress will go home for the summer recess without passing a Federal flood relief package when floods left people in the Midwest homeless.

Then the last paragraph is not anybody's quote except the author's, Charlotte Eby:

Maybe the U.S. Senate majority leader Harry Reid and House speaker Nancy Pelosi ought to walk the streets of Cedar Rapids. They would think twice about heading home for their August recess without lending a helping hand.

Then I have a quote from Congressman KING, who went to Cedar Rapids, I think, as recently as Monday of this week. He says:

This is Katrina. I have walked into and out of those buildings (in New Orleans) and I tell you, you wouldn't be able to tell the difference.

He means telling the difference between the destruction that went on in New Orleans in the 2005 hurricane and what happened in Cedar Rapids in June when it was hit by a 500-year flood.

I do applaud Senator OBAMA because he was in Cedar Rapids yesterday campaigning, and he was also very attentive to the problems of Cedar Rapids in his town meeting. He said he came there and wanted to listen. I have not heard reports on what questions he received, what complaints he received. He may have been talking just to a friendly audience—I don't know. But he did say that he was there to listen, and I hope after he has listened to the situation in Cedar Rapids that he will tell friends in the Congress of the United States that we need to act quickly. I hope he would say we should have acted this week—which action now, of course, is impossible because we are breaking for our summer break.

I am here once again to discuss the plight of my fellow Iowans and many others throughout the Midwest following a series of deadly tornadoes, storms, and floods. It is a multiple disaster, tornadoes and floods, and not just floods. Iowa has 99 counties. Of those, 80 counties have been designated as a disaster area by FEMA.

When looking at a map of Iowa, it is much easier to count the few counties that are not disaster areas than the vast majority that are disaster areas. Every weekend except for this past weekend since we were in session, I have been back in Iowa to meet with people affected by the storm and to see the devastation for myself. As I noted last week, estimates of damage are in the billions of dollars and are climbing every day.

I thought nothing could match my frustration at seeing so many Iowans in such great need, but the fact that we have not been able to act upon both the appropriations bill, as well as this tax bill, has frustrated me. It seems because we do not see the storm on television all the time that there is an apparent lack of desire to help the Midwest recover from these deadly tornadoes, storms, and floods, quite contrary to the quick action that Congress took after Katrina.

Before I go further, I want to display a few pictures of the flooding. The first will show one of many railroad bridges that was severely damaged. Businesses such as the one in this picture rely on this railroad track, this bridge, to receive their inputs and move their goods. Throughout Iowa there are similar bridges that are damaged. Iowa railroads play a vital part in moving our agricultural products and goods, to do it efficiently, and obviously in a more energy-efficient way. This infrastructure is important for Iowa's interstate commerce and international trade.

I have another picture that shows the museum of art at the University of Iowa, Iowa City. This is the museum of art. I believe I have heard from the university officials that this building is going to have to be torn down.

The next picture shows flooding along the Iowa River. You can see the tops of buildings. These are homes and businesses of people who just want their lives back. They are not asking for anything extraordinary or excessive, but they are in need of help to recover and rebuild. They are, in a sense, asking for the same help that New Orleans got after Katrina.

I would like to use the phrase ''so that they can get things back to normal.'' However, it is very difficult to use that phrase. It will take years before Iowa recovers, and it will not be the same, although we will still be a very strong State.

I can share, for example, the story of my hometown of New Hartford, a community of 670 just west of Waterloo, IA. An F5 tornado ripped through this area, destroying a whole section of town. The floods then came and inundated the town. Out of 270 homes in New Hartford, IA, 240 had damage or were destroyed. Businesses were also harshly affected. Many of them are trying to decide if they want to stay in business or if they can afford to stay in business. Several have already decided not to reopen.

The town I lived around all my life as a farm boy—and still as a farmer—will never be back to normal. It won't ever be the same. I think we will have a thriving community but, quite frankly, it won't be the same.

The next chart shows you a picture of downtown Cedar Rapids. I am talking about a 500-year flood. The previous flood record was about 19 feet. Levees could take up to 22 feet. But I think this flood got as high as 31 feet and has been referred to as a 500-year flood.

As you look at this picture, think of all the homes and businesses that are severely damaged and destroyed. Downtown Cedar Rapids is not going to be the same. Since Cedar Rapids and other places in Iowa are not popular as vacation spots as are other cities, you probably haven't seen or heard much of the devastation except for the week of television when it was actually underwater. I can assure everyone that the people of Iowa and the Midwest deserve the same consideration that was given to the people of New York after 9/11 and the people of the gulf coast after the hurricanes of 2005.

Last week I touched on how the response to the Midwest disasters has been different from the response to other disasters. I would like to elaborate on that point. These are some of the same points I made last night, but I only took about 2 minutes to make these points.

On August 29, Hurricane Katrina made landfall on the gulf coast, causing widespread devastation. The Congress was in recess at the time; however, the Republican Congress and the Senate Finance Committee sprang into action immediately at the staff level, even before we got back the day after Labor Day. We immediately started working with the Governors of the affected States and set out goals that we hoped to accomplish when we finally came back into session.

On September 28, 2005, less than a month——

The ACTING PRESIDENT pro tempore. The Senator is speaking under a 10-minute limit.

Mr. GRASSLEY. I ask unanimous consent to continue my speech for as much time as I might consume.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. DURBIN. I would like to respond when the Senator is finished. Can he give some indication when he might finish?

Mr. GRASSLEY. Yes. About 7 or 8 minutes, I think.

Mr. DURBIN. I have no objection.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Iowa is recognized.

Mr. GRASSLEY. On September 28, less than a month after Hurricane Katrina, I chaired a hearing entitled, ''Hurricane Katrina: Community Rebuilding Needs and Effectiveness of Past Proposals.'' Governor Blanco of Louisiana, Governor Barbour of Mississippi, and Governor Riley of Alabama all participated.

On October 6, 2005, I chaired another hearing titled ''The Future of the Gulf Coast Using Tax Policy to Help Rebuild Businesses and Communities and Support Families.'' Treasury Secretary Snow testified at that hearing.

Congress also passed tax legislation very quickly. The Katrina Emergency Relief Act of 2005 was signed by the President on September 23, 2005. This unoffset package cost more than $6 billion. That package was followed up by the Gulf Opportunity Zone Act of 2005, which was signed by President Bush in December of 2005. This unoffset package was scored to cost around $8.6 billion. Neither of these packages were subject to a rollcall vote in the Senate, but both were passed by unanimous consent.

I want to make it clear that we did the right thing by setting aside our planned agenda to help the people affected by hurricanes as quickly as we could. Some of the people still living on the gulf coast still need our help, and we should be helping them, and some of these tax provisions in what we call the extenders package continue some of that help. Passing these bills without offsets was also the right thing to do. As any of my staffers can tell you, I am very careful with the money. However, when people are suffering from a massive natural disaster, it is no time to be a cheapskate.

I am also very frustrated by the desire of some House Democrats to offset this tax relief package for Iowans and other Midwesterners because that is a double standard. We did not demand offsets when we were trying to help New Orleans. I am not asking for anything more than the same consideration that was given to the victims of other major disasters.

I have learned lessons from previous tax disaster packages. We learned we need to tailor the relief so more is targeted specifically for those who suffered damages and really need the assistance. Therefore, the package I introduced, that I tried to get unanimous consent on last night, called the Midwestern Disaster Tax Relief Act of 2008, provides targeted assistance to families and businesses in 10 States throughout the central United States to help those who suffered damage from these deadly storms and floods, to help them rebuild their lives.

The estimated cost of the bill is less than $4 billion. We need to be prudent with our Federal money, and as I stated, my tax package is targeted to those who suffered loss and is a reasonable cost to help these victims of the storms and floods in the 10 States that were affected. From that standpoint, that is something we have learned in the last 3 years from the package that was passed after Katrina.

There were people who took advantage of some provisions who were not harmed by the natural disaster, so we have tailored this bill so that only people who were harmed by the flood situation are the ones we will help. We had Senators HARKIN, BOND, MCCASKILL, COLEMAN, KLOBUCHAR, DURBIN, OBAMA, ROBERTS, BROWNBACK, LUGAR, and BAYH all as original cosponsors of this bill. In the House, the Iowa Congressional Delegation introduced a companion bill, and the list of the original cosponsors to this bill shows this is a very bipartisan package. We all recognize the need for targeted relief for the Midwest. The problem seems to be the ability to get the bill up in a timely fashion like we did in the case of New Orleans. I have been hearing that the Democratic leadership in the House is insisting that the package be offset, which is completely different than how we responded to disasters in the past when we didn't worry about offsets. Normally when we have emergencies, they are emergencies; you get the bill passed to help the people who need it.

Just yesterday the Senate voted against cloture on an extenders package put forward by Senate Democrats. It purported to include disaster relief. I am taken aback that the Senate Democrats would politicize the suffering of so many people just to try to get an extenders bill passed. The disaster relief in that bill was watered down. It provided substantially less assistance for Iowa and the other States in the central portion of the United States.

The Senator from Illinois is here, and I hope he hears that because I want to emphasize that that bill is quite a bit different and doesn't do as much good. It is not targeted. It is not helping people who need to be helped right now.

Its authors were apparently motivated by the twin misconceptions that the Midwestern disasters are not as severe as they really are and that we should undertake generic tax relief at the expense of the Midwest.

When I say the proponents of the Democratic extender package think the disaster is not as severe as they are, I say that noting that their package provided less assistance to the Midwest than my bipartisan tax-targeted disaster tax bill did provide.

The Democratic disaster package also had a higher revenue score than my package. I told you we tried to scale this back so we did not make the same mistakes we did in the case of Katrina, where a lot of people who did not get hurt by the disaster were able to take advantage of it—not our intention. But because we probably hastened it through to get help to Katrina victims, some people took advantage of it.

We tailored this so only people who have a disaster can benefit from it. It had a higher revenue score, as I said, than the Democratic alternative. They included the whole country instead of disasters that have not occurred. I am not arguing that we should look at putting generic assistance into the Tax Code to assist States when Federal disasters are declared the future. It seems to me that is a worthy thing for us to be discussing.

However, I do not think it is right to slow down the help for the Midwest because you want a broader national policy. People in the Midwest and Iowa are suffering now and have been for almost 2 months. They have experienced a severe event that was well above the 500-year flood level. This is an extraordinary disaster. We need the help right now.

The proper time to make a thorough a review of how we generally respond to disasters should not come at the expense of a specific massive natural disaster that has occurred and the people need immediate assistance. The author of the disaster package put forward in the Democrat's extender bill may have meant well, but I cannot help but feel that Iowa and the Midwest would be getting the short end of the stick.

Their disaster package also included a provision that only benefitted New York, at a cost of more than $1 billion. This is the second-largest provision in that disaster relief package, when people are literally trying to rebuild their homes, their businesses, and lives in the Midwest. It is simply insulting and disgraceful to use the misery of others to play politics and gamesmanship at a time when we should be able to put politics aside, as we did in September 2005, to help people going through extraordinarily difficult times.

However, there are apparently some who, because we do not see this on television or because they have other agendas, want to take advantage to get more. At the same time, I am trying to get help for my constituents.

The correct question to put is simply: How can I help?

The best course of action would be for the House and Senate to pass the Midwestern Disaster Tax Relief Act of 2008 and do it as we did in September 2005; do it by unanimous consent.

We can discuss general disaster response as well, but right now the people of Iowa are suffering and the Midwest is suffering as well. We have a moral obligation to help them as we helped the people and citizens of New York after 9/11 and the gulf coast when they needed help.

If anyone honestly believes Iowans do not deserve our help, then please come down to the floor, state your views, talk about it. I will encourage anyone who has doubts about the severity of this disaster to do like Senator OBAMA did yesterday, come to Iowa and I will be glad to take you around when you can come.

I am ready to yield the floor, but I had previously made a statement that

I was going to make a unanimous consent request on the immigration bill. I am not going to do that.

I yield the floor.

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

Mr. DURBIN. Mr. President, when Senator GRASSLEY comes to the floor and speaks of the Midwestern need, he speaks of an issue of which I have intimate personal knowledge. In 1993, it was my district, my congressional district, inundated by these floods.

I spent countless hours and days working with the brave volunteers and the National Guard and others to try to save buildings and homes and farms, filling sandbags and doing everything we could to fight off the flooding of the Illinois River and the Mississippi River.

This flood, which was not supposed to occur 15 years later, matched the intensity of the 1993 flood, in some places it overwhelmed the intensity in others, particularly in the State of Iowa. The scenes Senator GRASSLEY has depicted on the floor and have been described to me by Senator HARKIN are absolutely heartbreaking.

Cedar Rapids and so many other communities were devastated. I wish to make a point for the RECORD. It is this: In the 26 years I have served in the House and the Senate, I have never—repeat never—voted against emergency disaster relief for any part of our country.

I have felt that when that occurs, we need to come together as an American family and help others, even if it did not affect my State of Illinois. Time and again, I have voted for that disaster relief, believing the day might come when I would need it for the people I represented. I sincerely believe that. I believe that what Senator GRASSLEY has offered, in terms of additional assistance for Iowa, and perhaps even for my State, in the style that was offered to Katrina victims may be a good idea. I have not had a chance to study it. But I am inclined to support it.

I believe it could be a valuable addition to the assistance which we provided.

I wish to make it clear from the outset that what I am about to say does not reflect the fact that I could end up cosponsoring the bill offered by Senator GRASSLEY and work and vote for it and probably will before it is all over.

But I cannot understand what happened here last night. The Senate adjourned. We passed the adjournment resolution. Virtually everyone had gone. The floor was empty but for Senator GRASSLEY, myself and maybe one other Member and the Presiding Officer.

Then, at 10 o'clock at night, Senator GRASSLEY came on the floor and made a unanimous consent request for this assistance for Iowa. Now, he is the ranking member of the Senate Finance Committee. I do not serve on that committee. What he is asking for would be a measure that would be considered by his committee. I looked around for Senator BAUCUS, the chairman of the committee who works with Senator GRASSLEY. He had left for the evening, as most other Members had.

To think that at that moment in time, with virtually no one in the Senate, after the adjournment resolution had been passed, when the chairman of the Senate Finance Committee was not on the floor, the Senator came and made his request.

Now, any Senator can make any request at any time. But it was not made at a moment in time where one might expect success. This is a matter that should have been brought up weeks ago, weeks ago by the Senator from Iowa, and so many others, in the Senate Finance Committee, resolved and brought to the floor.

But it was not until the Chamber was empty late at night that it was brought up. I spoke on behalf of Senator BAUCUS and I objected. I did because it concerned me that the day before, we had a measure on the floor to not only help Iowa, which truly needs help, but to help Illinois, to help all the States that have encountered disasters during the course of this last year.

Senator GRASSLEY's request relates primarily to the Midwestern area, which I am part of, and to disasters which occurred after May 20. There are many States that have faced many disasters which would not be helped by Senator GRASSLEY's bill. He made that conscious choice. He wanted to help his own State and, of course, he would. I would want to help my State first too.

But in the scheme of things, do we not owe an obligation to other States that have faced disasters to try to treat them fairly as well? How can some Senators on the Republican side come and vote against disaster relief on Wednesday or Thursday, and then come the next day and say: I want my own version of the bill—late at night—let's make sure we get it passed.

The Senate does not work that way and it should not. We should be conscious of the disasters across the United States and be evenhanded. Now, the Senator raised my name in the debate this morning, referring to me as the majority whip. I had not planned on being on the Senate floor. But my staff said: The Senator from Iowa is making reference to you. I came to the floor. I wanted to make sure the RECORD is complete and at least reflects my own views of what happened last night and what should happen moving forward.

The Senator from Iowa said this morning, and I wish to quote what he said because I think it is very important. The Senator from Iowa, in describing why he voted against S. 3335, which includes the energy tax extenders, $8 billion for the highway trust fund so 400,000 jobs across America would not be lost; money to protect families from the alternative minimum tax penalties; the Wellstone Mental Health Parity Bill; and, disaster assistance for the State of Iowa, the Senator voted against that.

This morning here is how he explained it:

> We, the minority, want to stay on the No. 1 problem affecting this country and, that is, the high cost of gasoline and the energy crisis that is facing the Nation.

That is how he explained his vote against the measure. Yet he comes to the floor and asks the Senate to move off that energy matter so his bill can pass. The Senator cannot have it both ways. You cannot have it both ways, when we bring a bill to the floor to help the State of Iowa and other disaster-stricken States and you vote against it saying, ''I do not want to move off the Energy bill,'' and then, while we are still on the Energy bill, make a unanimous consent to move off it to help your State.

If we are going to be fair to all the States that have faced disasters, then we should pass this bill. I am going to give you a chance to help Iowa now.

UNANIMOUS CONSENT REQUEST—H.R. 6049

I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 767, H.R. 6049, the Renewable Energy Job Creation Act of 2008, that the amendment at the desk, the text of which is S. 3335, be considered and agreed to; the bill, as amended, be read a third time, passed, and the motion to reconsider be laid upon the table; that any statements be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. GRASSLEY. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

The Senator from Illinois has the floor.

Mr. DURBIN. I yield to Senator GRASSLEY for the purpose of his explaining his objection so the Senator's objection is in the RECORD. But do I not want to surrender the floor. Is that possible?

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

Mr. GRASSLEY. Mr. President, yes, I will take that opportunity. I hope I get to have an opportunity to offer a unanimous consent request as well for our side of the aisle, if you want to be completely fair. In the last few weeks in this body, we have not necessarily been fair.

So let me take advantage of the majority whip's invitation to respond. First of all, he knows, because he is in the leadership, that I gave the majority party information, at least 48 hours ago, and maybe 72 hours ago, that this week I was going to seek a unanimous consent request, and all day yesterday we were denied that opportunity, even at the point before adjournment and my speaking to Leader REID about when can I do my unanimous consent request.

You know what I was told? After the adjournment resolution. So do not say

I did not make an attempt to do it and do not say you did not know about it. If you wanted to cooperate with us, we could have had that cooperation. But there does not seem to be that sort of comity in the Senate anymore.

Another point you made was that I had a chance to work for a tax relief package for flood victims. The bill you voted for and you asked unanimous consent on did less for your constituents than the legislation we had been working on for 2 weeks.

Then, he brings up the point about not working through committee. Well, most of the work on this bill has been so we can get a consensus package, working with even Chairman RANGEL's staff, so it is not only bipartisan but bicameral, so we can put together something and get it done very quickly in the same consensus manner that we were able to help the victims of New Orleans.

Then, the other reason: Why would the Senator from Illinois cosponsor our bill if it was not the right bill for his State and for the Midwest and for this disaster?

We have always tried to do things as quickly as can be done when people hurt. That is why when we got back after Katrina—on Tuesday or Wednesday—we had $10 billion that we were going to give to New Orleans. Before the end of the week was up, it was $60 billion, in 2005.

Now, do you think the committee had an opportunity to work its will on that? No. They were responding to need. Don't you think your constituents hurt across from Burlington? They may be still underwater. I do not know. A couple weeks ago, they were when I was talking on the radio station. In Burlington you had constituents who still had just the roofs of houses showing. Don't you think they need help right now?

So I think, first of all, proceduralwise, either the majority whip does not know what is going on when I notify his cloakroom that I am going to offer it or else he does not care or he wants to mislead.

The second thing is, he is not voting for the bills and pushing the bills that will help his constituents the most, and we still do not have the relief.

So that is my response to the Senator from Illinois.

The ACTING PRESIDENT pro tempore. The majority whip.

Mr. DURBIN. Mr. President, I would just say to the Senator from Iowa, I was not part of his conversation with the majority leader as to when he was going to offer his unanimous consent request. He offered it after the chairman of the Finance Committee had left and virtually all the members had left.

Whether he had an opportunity to do that before, I do not know. He did not make a request of me. I was not aware of it. But he certainly met with Senator BAUCUS during the course of this week and had ample opportunity to raise this issue. It is something that should have been resolved between the two of them before Senator BAUCUS left. I think he would understand, as I do, that is a problem for Senator BAUCUS to be gone and to make a unanimous consent request.

One thing the Senator from Iowa did not say was why he objected to this bill. Again, he voted against it. Now he objected again—this bill that does contain assistance for my State and his State because of the recent flood disaster. The simple reason is, he disagrees with many of the other provisions of this bill and decided he would vote against it. That is his right as a Senator.

I will tell him again, I may find his bill that he is offering today to be the right bill for my State and for his State as well and support him. Even if his unanimous consent request prevailed today, the House is gone. We will be gone in just a matter of hours. Nothing is going to happen to his request until we return in September.

Maybe after the August break, and a little bit of time and reflection, we can come back and find what we need; that is, a bipartisan approach to helping a lot of innocent victims of this flooding in the Midwest and victims of other disasters across the United States.

As much as I feel for my own home State and his State of Iowa, there are many other disaster victims who need a helping hand as well. I think we ought to consider all of them when we return.

So at this point, Mr. President, I am going to yield the floor and say to the Senator from Iowa, we have worked closely on things before. But when he raised my name on the Senate floor this morning, when I was not present, I felt I had to come down and explain what happened last night and the situation we find ourselves in today.

UNANIMOUS CONSENT REQUEST—S. 2291

Mr. President, I have one unanimous consent request to ask, which I do not think has an objection.

Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 869, S. 2291, the Plain Language in Government Communications Act; that an Akaka substitute amendment, which is at the desk, be agreed to, the bill, as amended, be read a third time and passed, and the motions to reconsider be laid upon the table, with no intervening action or debate.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. GRASSLEY. Mr. President, on behalf of Senator BENNETT, I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

The senior Senator from Iowa is recognized.

UNANIMOUS CONSENT REQUEST—S. 3322

Mr. GRASSLEY. Mr. President, before the Senator from Illinois leaves the floor, I want to ask unanimous consent to bring up a bill to which he is probably going to object. But I want him to know that people on this side of the aisle want to move things along.

Mr. President, I ask unanimous consent that the Committee on Finance be discharged from further consideration of S. 3322, and the Senate proceed to its immediate consideration. I ask unanimous consent that the Grassley amendment at the desk be agreed to, the bill, as amended, be read a third time and passed, the motions to reconsider be laid upon the table, and the bill be held at the desk pending further House action.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. DURBIN. Mr. President, reserving the right to object, this is the same request that was made last night.

On behalf of Senator BAUCUS, the chairman of the Senate Finance Committee, I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

The Senator from Pennsylvania is recognized.

Mr. CASEY. Mr. President, thank you very much.

ENERGY

Mr. President, I rise this morning to talk about an issue we have talked a lot about in the Senate for weeks and now months, literally, and we have not reached a resolution on it. It is the question of energy and gasoline and what has been happening to our economy, what has been happening to our families.

There is plenty of blame to go around. I am not here to do that today. But I do think that anything we talk about—and certainly anything we legislate on—has to pass two tests. One test is, will it provide short-term relief to families or short-term help to the economy? And, will it help long term? If it does not pass the short-term and/or the long-term test, we should not be doing it. That is kind of the frame of what I want to use to talk about some of the issues I am going to raise this morning.

Mr. DORGAN. Mr. President, will the Senator yield for a unanimous consent request?

Mr. CASEY. Sure.

Mr. DORGAN. Mr. President, I apologize for interrupting the Senator.

I ask unanimous consent that I be recognized following the Senator's remarks for 20 minutes.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

Mr. CASEY. Mr. President, I thank the Senator from North Dakota for reminding me what I promised I would do.

Mr. President, I want to talk about this issue in terms of short term and long term because one thing that has been missing from this debate, frankly, on both sides, is sometimes not nearly enough honesty—a lot of charges and countercharges, a lot of finger pointing, and not enough progress. I think for one party or the other in the Senate to blame the other is not productive, nor is it accurate.

So let's talk about short term and long term. There are some things we

can do short term to help this problem. No one here has a magic wand to say if we take this action, gas prices are going to go down in the next couple of weeks. Anyone who says that is probably not telling the truth—maybe not even over the course of a couple of months. But there are some things we should try to help in the short term before we abandon that and say all we can do is look to the long term, which we all know is renewable energy and all of these strategies. But let's talk about the short term.

I think yesterday a number of Senators—I think the total is 36; I will stand corrected if I am wrong about that—at least 35 or 36 Senators wrote to the President of the United States. Mr. President, I ask unanimous consent that the July 31 letter to the President regarding the Strategic Petroleum Reserve be printed in the RECORD.

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

U.S. SENATE,
Washington, DC, July 31, 2008.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: We are writing today to urge you to use your emergency authority to immediately release oil from the Strategic Petroleum Reserve. Virtually no other action you could take would have as positive or as immediate an impact at the pump, lowering fuel prices for American consumers and businesses. Unlike other proposals put forward in recent days that would take 8 to 10 years to affect the price of gasoline, an announcement of plans to release oil from the Reserve could cause a decline in oil prices within hours. A similar announcement made by your father, President George H. W. Bush, in 1991 led oil prices to decline within a day of the announcement, even though the actual release of oil did not occur for two weeks.

For the past two months, U.S. gasoline prices have topped $4.00 per gallon—at least $1 more than just a year ago. Diesel fuel has been even more expensive, now averaging $4.60 a gallon. This has had a devastating effect on American families and businesses. Although gasoline prices have risen 165 percent since you have taken office, average gross income has increased only approximately 24 percent. High transportation costs are adding to higher prices in our stores and supermarkets, too.

Fuel prices have risen in direct response to rising crude oil prices. The 40-percent increase in oil prices since the beginning of the year is unprecedented, given that there have been no unusual world supply disruptions. Instead, growing worldwide demand, flat production, and uncontrolled market speculation have put upward pressure on oil prices. This crisis constitutes a severe energy supply interruption. It requires an immediate response, and you hold it in your power to authorize a release from the Strategic Petroleum Reserve that will immediately supplement our crude oil supply and break the cycle of spiraling speculation.

The Government Accountability Office recommended in a hearing before the Senate Committee on Energy and Natural Resources on February 26, 2008, that the Department of Energy hold 10 percent of its Strategic Petroleum Reserve inventory in heavy crude oil. The lack of heavy, sour crude oil in the Reserve inventory poses a problem for refiners that use this kind of oil, refiners upon whom we would rely in the case of an emergency supply disruption. The Department has acknowledged the benefit of holding heavier crude oil in its inventory and stated its intent to acquire heavy crude oil as it expands its inventory capacity.

We ask that you take immediate action to begin to implement this modernization of the Reserve by releasing 70 million barrels of light, sweet crude oil, about 10 percent of the current Reserve inventory.

This would have an immediate effect on oil and gasoline prices, unlike proposals that would open new federal land and offshore areas for drilling, which would not add oil to the market for many years.

At an appropriate time in the future, the Reserve should be replenished with lower-grade, heavy crude oil, in accordance with the GAO's recommendation. Market conditions are favorable for this exchange of light for heavy crude, as the current high price differential between these two crude types would allow the Department to generate considerable revenue.

Given the benefits this step offers for the mission of the Strategic Petroleum Reserve and the relief it would provide to Americans suffering from record high fuel costs, we urge you to direct the Department of Energy to release light, sweet crude oil from the reserve to help Americans at the pump now.

Thank you for your consideration of this matter.

Sincerely,

Dick Durbin, Harry Reid, Bill Nelson, John Kerry, Amy Klobuchar, Kent Conrad, Debbie Stabenow, Dianne Feinstein, Herb Kohl, Barbara Boxer, Sherrod Brown, ——— ———.

Mr. CASEY. I won't read the whole letter, and I won't read all the signatures. But here is how the letter starts. The first line of the letter reads:

Dear Mr. President:
We are writing today—

Meaning yesterday—

to urge you to use your emergency authority to immediately release oil from the Strategic Petroleum Reserve.

It goes on later in that paragraph to say:

A similar announcement made by your father, President George H.W. Bush, in 1991 led oil prices to decline within a day of the announcement, even though the actual release of oil did not occur for two weeks.

So when that happened in 1991, oil prices went down very rapidly. The same happened with this President Bush in the aftermath of Hurricane Katrina. So what we ask is that the President—he does not need Congress; he does not need to get a consensus in Washington—the President has the authority today to release oil from the Strategic Petroleum Reserve.

So the letter, toward the end, says:

We ask that you take immediate action to begin to implement this modernization of the Reserve by releasing 70 million barrels of light, sweet crude oil, about 10 percent of the current Reserve inventory.

So I am quoting in part from the letter, but the point is, the President of the United States today—today—has all the power and the authority to take that action. Will it be a magic wand? No. Will it immediately lower prices? Probably not. But it has the potential because of the precedents of what happened before—the recent history on this—to bring down prices. So that is something that is short term that the President could do right now. I hope he would do that.

But let's talk about long term. One thing we all agree upon, both sides of the aisle, we can fight and we can point fingers and we can have arguments and debates—and it is OK to debate—but one thing we all agree on, no matter what party we are in—and this is something the American people understand in their gut; they get this and they understand this—we have to take steps now that we should have taken 10 years ago or maybe 20 or 25 years ago that we did not take to reduce our dependence on foreign oil and to get to this question of renewables.

We had that chance a couple of times in the last 18 months. We had that chance just a few days ago, but it was blocked. A lot of people in this body voted for it. We did not get enough votes, but here is what was blocked.

Let me run through a quick list because sometimes when these votes occur and the vote is announced we forget what was voted on. Here is what was blocked a couple days ago: a new consumer tax credit for the purchase of plug-in electric vehicles, to move that tax credit from $3,000 to $5,000, plug in electric vehicles, that was blocked; a 1-year extension of a wind power tax credit, that was blocked; a 3-year extension of biomass, geothermal, and other renewable energy tax credits, that was blocked; an extension of the 30-percent investment tax credit for solar energy, that was blocked; an extension of the 10-percent investment tax credit for fuel cells, that was blocked; a 5-year extension of the tax deduction for energy-efficient commercial buildings—we know we have to do that—that was blocked; a 3-year extension of the tax credit for energy-efficient appliances, that was blocked.

So on issue after issue that gets to this question of reducing our dependence on foreign oil, getting off of oil generally—not just foreign oil but getting off of the dependence on oil—working on all of those renewable energy strategies that everybody in the country knows we have to do, they were blocked a couple days ago, and we should remind people who are paying attention to this issue that actually happened.

We have a debate currently about speculation. I am not going to spend a lot of time on that. It is not a magic wand. I have said that before. But it is one of the ways—probably more long term than short term, but it is one of the ways we have to provide some relief long term.

So these are strategies that, whether it is speculation, cracking down, and providing more sunlight—that is all we are asking for, is to say: If you want to make a lot of money in the market, and we have a commodity futures entity that regulates your conduct, we

want to give them the authority to provide sunlight to that transaction. That is all we are asking. That is all we are asking on speculation.

So speculation passes maybe both but at least one of the short-term/long-term tests—one of that two-part test. This letter to the President on the Strategic Petroleum Reserve—that certainly passes the short-term test that we can get some short-term help. It is not all the relief we want, not a magic wand, but it can provide some help.

So what else do we need to talk about?

We have been talking and talking a lot about drilling. Let's put some facts on the table. Some of these facts have not been on the table. It is important to do that. I know there are a lot of people out there saying: If we could just drill, we could have some relief provided. I would argue—and I think there is a lot of evidence to show this—that the drilling argument put forth by the other side does not pass the short-term test and does not pass the long-term test. It does not pass either test, and we know that.

Here is what should be on the table in terms of facts. All these years since the President has been in office, the price of gasoline has gone up, and in my home State of Pennsylvania people are paying more in a year—almost $2,800 more—for gasoline than they were when the administration started. OK. That is just a fact. We know the price of gasoline has gone up. Everyone understands that.

But while the price of gasoline was going up over the last couple years, guess what else was going up. This has not been talked about much. There has been a 361-percent increase in oil drilling. So we have increased oil drilling a lot. Some might argue we have never drilled more. There has been a 361-percent increase in oil drilling since the President came into office, and yet the price of gasoline has gone up at the same time. So this idea that oil drilling has been restricted or limited is contrary to the facts.

So how can that be? If the other side keeps talking about ''drilling leading to relief,'' how can it be that we have had that increase, and whether you measure it by the increase in drilling or the leases, we have had a dramatic increase in the number of leases. So that is fact No. 1, a 361-percent increase in oil drilling since the administration started.

Here is another fact: Seventy-nine percent of America's recoverable oil reserves are already open for drilling. Seventy-nine percent are open—open for business right now. So there is plenty of drilling going on; in fact, it has accelerated. Yet the price of gasoline has gone up.

Regarding the 24-percent versus 3-percent argument that I and others have made, the Washington Post had a chart on Sunday, July 27, page A–8, and I have the chart right here, a chart in red. It reads very simply: The percent of the world's oil consumed by the United States in 2007: 24.4 percent. So we are consuming more of the world's oil. It is up to 24 percent. So if you want to drill your way to that 24 percent of the world's oil—because that is what the other side is saying—then we must be, I guess, hoping to produce enough to get there. Well, we know America has only 3 percent of the world's oil reserves, so no matter what we do on drilling, even if we add to the massive increase we have had in drilling, it is not going to get us to the 24.4 percent consumption. That is why we have to get renewables.

So when people across America say we can't drill our way out of it, that is not just a nice little phrase, it is the truth. You can't get to 24.4 percent if you only have 3 percent of the reserves, no matter what you do on drilling.

Finally—and I won't spend a lot of time on this, but it is relevant to the discussion—one party involved but that hasn't checked in on the debate to give us a little help is the oil companies. Members of the House and Senate are debating and sometimes fighting, the American people are arguing about this, and all the while this debate is going on, guess who is getting our tax money—tens of billions—and guess who is also doing pretty well on their quarterly profits. Big oil. I have said it before and I will say it again. President Kennedy was right. Once in a while, we have to ask ourselves, what can we do for our country? I have to ask Mr. Big Oil: What are you doing for your country? While we are having this debate and while everyone is frustrated by gas prices—and rightfully so—what is big oil doing?

Well, here is what they are doing. ExxonMobil released their quarterly profits: in one quarter, almost $12 billion in profits, and we are giving them tax breaks. So they get all the drilling they need, they are getting our tax money, their quarterly profit is $11 billion, and they are not checking in. They are not saying, you know what—or we are not saying to them with legislation—we want to do it, I want to do it, but we don't have enough votes on the other side to do it. We are not saying: You know what, Mr. Big, with big oil profits, you have enough. You have enough tax breaks, you have enough places to drill. You have enough profits. You have enough. It is time for Mr. Big Oil to give a little, to help us a little as we debate this, because until they check in and until they help the American people, or until we force them to help the American people, we are going to be missing a lot of opportunities.

I will conclude with this. I think we should continue this important debate. I am happy the majority leader, who I think has shown great leadership on this issue, has continued to work in a bipartisan way and wants to have a summit, a meeting with both parties. That is important to get something done. I think we can. If we don't start dealing with facts and start dealing with that test, what will help us short term but, more importantly, what is going to help us long term—and that is renewables—until we get to the question of renewables and until more people on the other side start voting to incentivize the creation of renewable sources of energy, we are not going to make much progress. So I think we need to focus on that test and we need to make sure we are working in a bipartisan way to try to bring some relief to American families.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from North Dakota is recognized for 20 minutes.

CHINA

Mr. DORGAN. Mr. President, I come today as a United States Senator, but also as the co-chairman of the Congressional-Executive Commission on China. I wish to tell my colleagues that the Congress created the Congressional-Executive Commission on China in the year 2000 to monitor China's compliance with international human rights standards and to encourage the development of the rule of law there. I am proud to be a co-chairman of the Congressional Executive Commission on China. I think the role it performs is an extremely important one.

I come to the Senate floor today in that role. I also come as well to say that at a time when there is so much criticism of almost everybody in the political system—and I have done my share of differing with various people in politics—I come today to say to President Bush that I very much appreciate the actions he took this week when he met with several dissidents from China, all of whom have been imprisoned in China for exercising the fundamental human right of free speech.

The President met with the dissidents for the same reason I come to the floor of the Senate this morning. One week from today, the 2008 Summer Olympics begin. It is a great pageantry and a great celebration, in many ways. It is a celebration of athletic achievement from all around the globe. We will have many Americans representing our country and demonstrating their individual achievements on the field of sport. We will have basketball players and tennis players and gymnasts and track and field participants. They will participate in these wonderful Olympic games that occur every 4 years.

The Olympic games at this time, a week from now, will be held in the country of China. There was dispute about that and concern about China hosting the Olympics, but China convinced the International Olympic Committee that it would make significant progress in areas that reflect the ideals of the Olympics—especially human rights and human dignity. Because of the commitments it made, China was awarded the Olympic Games for 2008.

This is, it seems to me, not only an opportunity for athletes from our country and around the world to compete in sport, but it is also an opportunity, given that the Games will be held this year in China, for our country and for other countries to appeal to the Chinese government to open its system to greater human rights. It is also an opportunity to strongly urge the Chinese government at this point to address the issue of so many of its citizens—many of whom are its best and brightest citizens—sitting in dark prison cells, having been sent to prison for exercising the right of free speech.

China is an extraordinary country. You cannot understand the wonder of China without visiting it. You can't help but stand on the Great Wall of China and think about the history of this incredibly interesting country. Visiting China is an extraordinary experience. But, it is also the case that China is not an open society.

Our Congressional-Executive Commission on China has the largest database of prisoners, the most complete database of Chinese political prisoners that is accessible and searchable by the public. Why do we keep that database? So we can shine a bright light into the darkest cells of China, for those who have been imprisoned by the Chinese for exercising the right of free assembly and free speech, and to say to them: The world knows you are there. You are not forgotten.

The international community has the opportunity at this moments during these Olympics to speak up and speak out. I complimented President Bush for meeting with the dissidents this week. I think it was exactly the right thing to do. I compliment him and support him for what he said to the dissidents. He said to the dissidents that he intended to not only care about freedom and liberty, but when he traveled to China, and to talk to the Chinese about freedom and liberty.

All of the people President Bush met with this week have spent years in Chinese jails for advocating on behalf of religious freedom, human rights, freedom of speech in China. So when the President travels to China for the opening of the Olympics, it is vital, it seems to me—and I think I speak for the entire Congress—to say it is vital that the President express in the strongest terms possible to the Chinese that they need to address the human rights problems in their country that have been so deeply disturbing to the rest of the world.

As I indicated, we have the names of 807 political prisoners known or believed to be currently detained, imprisoned or under house arrest. These 807 records of Chinese people in jail are a subset of the nearly 4,500 records in the Political Prisoner Database. The rest of the records reflect release, death, or escape.

Our commission works very hard to get information out about those who are being held in some of the darkest cells in China. We want the world to pay attention. The President of the United States committing to go to China and to talk to the Chinese leaders about these people is very important. We have sent President Bush the list of 807 prisoners now in Chinese prisons. Let me go through a few of them, because I think it is important to attach faces and names to this list of 807 people.

This man is named Hu Jia. Hu Jia is a courageous activist who was jailed last December by Chinese authorities because he was invited to speak at a European Parliament hearing. At the hearing, he made comments in his testimony that were critical of China hosting the Olympics. The result was that he was put in a Chinese prison. His wife and infant daughter—and you see his wife and daughter in this photograph—were placed under house arrest for several months. In April, Hu Jia was sentenced to 3½ years in prison for inciting subversion of state power. Let me describe the charge again: ''Inciting subversion of state power.''

I recently talked to a man who testified at that same European Parliament hearing and along with Mr. Hu Jia. This man, however, is not in prison because he is not a Chinese citizen. He also just expressed himself like Hu Jia. At the request of a hearing of the European Parliament, he testified and expressed himself. He expressed criticism of China for being chosen to host the Olympics. For that, Mr. Hu Jia will spend 3½ years in a Chinese prison.

The next photograph is a photograph of Yang Chunlin. He has been repeatedly detained for helping farmers seek compensation for lost land in China. Last summer he organized a petition entitled ''We Want Human Rights, Not The Olympics.'' He was subsequently arrested and he was charged for inciting subversion of state power. We are told that he has suffered severe beatings, causing damage to his eyesight, all for the purpose of speaking out, exercising the right of free speech. He is a very courageous Chinese citizen who simply wants the opportunity to speak freely.

Finally, Mr. Ye Guozhu. He is pictured in this photograph alone. Three generations of his family were evicted from their Beijing home in 2003 to make way for the Olympic-related construction that occurred in Beijing. In 2004, because three generations of his family were evicted from their homes, he applied for permission to organize a protest against other alleged forced evictions in connection with preparations for the Olympics. He was arrested. He has been sentenced to 4 years in prison.

Let me describe the charge. The charge for which he is serving 4 years in a Chinese prison is ''provoking and making trouble.'' Because three generations of his family had been evicted from their homes to make room for the Olympics, he decided to circulate a petition to organize a protest against other alleged forced evictions, and he is now serving 4 years in prison. We are told he has repeatedly been tortured. He finished his sentence, by the way, and was supposed to be released from prison this week. But his release has been further delayed, presumably, because the Olympics are near.

The President of the United States—and only the President—has the power to shine the brightest light in the world into the dark cells in China and say to these courageous Chinese citizens that you are not alone. This country knows about you, about your struggle, and about your efforts to secure freedom of speech and other fundamental human rights.

We have said to the Chinese Government we want progress. They made representations to the Olympic Committee, in exchange for being able to host the Olympics, that they would make progress on human rights. I have shown photographs of some very courageous Chinese citizens who now sit in Chinese prisons precisely because their human rights have been violated.

Again, I thank President Bush for meeting with the dissidents this past week. I am someone who, from time to time, doesn't agree with President Bush. I am often critical of his work. But today I commend him for meeting with the dissidents who had previously served time in prison in China. He met with them at the White House this week. It was the right thing to do. He made commitments to those dissidents that he is going to do all he can. I hope he will—when he goes to China—take that torch of liberty and freedom to President Hu in China and say that our country will not ignore these prisoners, we will not pretend they don't exist. China has a responsibility to move toward greater human rights.

So this is the moment. I hope very much that President Bush will do what he told the Chinese dissidents he will. I commend him for that, and I hope that not just in the next 7 days, when the Olympics are prepared to start, but also during the Olympics and during the President's visit, he will offer some hope and encouragement to those who now spend their time in a dark prison cell for having the temerity to try to speak the truth in China.

I strongly feel that if we miss this moment, we will have missed something very important. I support the Olympics. They are a wonderful opportunity for the world. But I strongly believe that when the Olympics are held in a country such as China, and the Government there makes certain representations about human rights not only to the Olympic Committee but also to those who will attend the Olympics, and especially the President of the United States, who will meet with President Hu, that he will bring that message of freedom, liberty, and human rights to the Chinese Government and describe our expectation and the expectation of the international community that their citizens be allowed full and genuine freedom.

Mr. President, how much time remains?

The ACTING PRESIDENT pro tempore. The Senator from North Dakota has 6 minutes 20 seconds.

ENERGY

Mr. DORGAN. Mr. President, I wish to make a couple comments about energy. There has been a lot of discussion all week—in fact, the last several weeks—on energy, and the reason is obvious. When you see the runup and doubling of price of gas and oil in a year, the American people are pretty apoplectic about that. They wonder what can they do to respond to it. How do I afford to fill my gas tank to go to work? The airlines wonder: How do we afford to put jet fuel in the airplanes we fly? The truckers wonder: How do I fill the saddle tanks and be able to afford it? The farmers wonder: How do I fill the fuel tanks for the harvest? This is a big hit to the American economy.

The first step is to do the obvious thing. I have a letter, for example, from the chief executive officer of an oil refining company called Tesoro. They don't produce oil; they have to buy oil like everybody else to refine it. He believes there is a dramatic amount of excess speculation in the oil market. We need to wring out the excess speculation from the commodity markets. Seventy-one percent of what is happening in the oil futures market has nothing to do with people who want oil. They don't want a can of oil, a 5-gallon can or even a quart. They want to trade paper and make money. That market is broken and has been taken over by speculators. We should set that market right and wring out the excess speculation in that market. We have testimony before the committee that doing that can reduce the price of oil and gas by 20 to 40 percent. That is step 1. We ought to do the easy things, and then a lot of other things.

My colleagues say drill. I say absolutely. Conservation is the cheapest form of energy. Saving a barrel is the same as producing a barrel. We waste a lot. Producing and drilling and conservation and efficiency. Every light switch we turn on, every thermostat, everything we do can be much more efficient and lose much less energy, no question about that. Conservation, efficiency, production—and especially a game-changing approach away from every 15 years shuffling in here like bags of wind in blue suits, talking about the plan we had 15 years ago and 15 years before that and 15 years before that.

How about finding new energy and moving toward hydrogen fuel cell vehicles? Hydrogen is everywhere. Water vapor would come out of the tailpipe. Wouldn't that be wonderful? Battery storage technology, with substantial research, and moving to electric cars. How about doing all these things? Solar, wind, biomass, geothermal—we have so many opportunities. We can round up all the money we spend on all of it and research a different energy future, which equals what we spend in the war in Iraq in 40 hours. We ought to do everything and do it well; but we ought to decide that if we are addicted—and President Bush says we are—what do you do with an addict? Do you say I will quit tomorrow and pass the bottle tonight? That is not what you do. You decide you are going to have something that is game changing. You are going to go to a different kind of energy future.

I wish to make a final point that is very important. I support increased production, all those things. But my colleagues in the Senate have blocked—some of them in the minority—through eight votes, our determination to provide tax incentives for renewable energy. Renewable energy is so important, and we put into place permanent, robust tax incentives in 1916 to say that if you look for oil and gas, God bless you, we need it. If you find it, you will get tax incentives. We have done that for almost a century. Do you know what we did for people who tried to go find and produce wind, solar, and other renewable forms? We put into place tax incentives in 1992—short term, kind of shallow—and we extended them five times, and we let them expire three times. Start, stop, stutter step. The fact is, we shut off all the investment every time they stop. They are set to expire at the end of the year. The minority has blocked, eight times, the extension of the tax incentives so we can move toward a different energy future.

If we don't understand that when 65 percent of your oil comes from Saudi Arabia, Iraq, Kuwait, and Venezuela and outside our country and that makes America vulnerable—if we don't understand that, we ought to go back to bed; you don't need to wake up. It has been pretty disconcerting to see people thumb their suspenders and stick out their stomachs and say we need to drill another hole someplace. We suck 85 million barrels of oil a day out of this planet, and 21 million barrels of that are destined for this country. We use one-fourth of every drop of oil pulled out of this planet every day, and almost 65 percent of it comes from outside our country. If you don't understand the vulnerability of that, then you don't have the capability to understand very much, in my judgment.

We need a robust, aggressive, new energy future. It must include virtually everything, but at its root and at its foundation, it must have a game-changing device that says that 10 years from now we are going to have a different energy mix, a different construct.

Yesterday, I said John F. Kennedy didn't hang around in the early sixties and say: I am thinking of sending a person to the Moon or I am going to try to send a person to the Moon or I hope we can send a person to the Moon. That is not what he said. He said that by the end of the decade, we are going to have a person walking on the Moon. How about saying that in this country now on energy?

By the end of the next 10 years, we will have substantially changed this country's energy mix, and we are going to make the investments necessary to do it, so we are not shuffling around here 10 years from now with the same tired arguments I call ''yesterday forever.'' How about something that does advance this country's long-term interest in energy? Let's do everything we can at this point. In the meantime, let's set a goal and meet the goal as a country that makes us less dependent on foreign oil and move to a different kind of energy future.

I yield the floor.

The ACTING PRESIDENT pro tempore. The senior Senator from Oregon is recognized.

Mr. WYDEN. Mr. President, I ask unanimous consent to speak for up to 20 minutes.

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

Mr. WYDEN. Mr. President, I am heading home for town meetings this weekend. There is no question that the dominant subject is going to be all the economic hurt we are certainly seeing in Oregon and across the country. People are concerned about their gas bills and their food bills and medical bills.

Yesterday, Senator GRASSLEY and I, in an effort to look at a fresh approach to holding down gas bills, released what we call a discussion draft, in an effort to solicit ideas and input from people who have expertise on this subject, about how we might change the tax laws so as to not encourage speculation in the oil business.

The current Tax Code gives speculators tax incentives to bid up the price of oil. Essentially, the current tax law distorts our markets. It favors one set of buyers and sellers over another. Senator GRASSLEY and I are going to be seeking ideas and suggestions over the month-long August recess in the hope that in the fall, when the Senate reconvenes, Democrats and Republicans can come together on a bipartisan basis and come up with more sensible tax policies, so we don't have a tax system that, in effect, creates incentives to drive up the price of gasoline.

We have put out this proposal, and it is on my Web site. Again, we call it a discussion draft. It is, in fact, just that—a way to gather ideas and input and make sure people have a chance to be heard.

On another economic hot button issue that is burning a hole in the pockets of our people, I wish to spend a few minutes talking about health care. One of the reasons health care is so expensive is that we pay for so much inefficiency in our health care system. This year, we are going to spend about $2.3 trillion on American health care. Dr. Peter Orszag, the head of the CBO, estimates that about $700 billion of that $2.3 trillion is essentially spent on health care of little or no value. So we

have to find ways to root out some of this inefficient health care spending if we are going to hold the costs down.

Yesterday, a very remarkable hearing was held in the Senate Finance Committee on which I serve. Senator BAUCUS, chairman of the committee, to his credit, made it clear that he is going to dig into these big issues. It is clear, once again, that the Tax Code, as it relates to health care, is clearly driving up the cost for American families and for our people. In effect, the Tax Code encourages inefficient expenditures in American health. We have writeoffs for employers. We have breaks for individuals but they are not shared by all. The $250 billion that is spent through these tax rules disproportionally goes to the most affluent in our society, rather than the people who need it the most.

If you live, for example, in a small town in Ohio or a small town in Oregon, here is the way it works with the Tax Code: If you are well-off and you have a fancy health care plan, you can tuck a whole lot of your compensation into that health plan tax-free. So in a town in Ohio or Oregon, if you are going to buy a pair of designer eyeglasses or get a designer smile, you can write off the cost of those Cadillac benefits. But if you are somebody in a small Oregon town or in Ohio who has no health care, you don't get those writeoffs.

It is unfair. It encourages inefficiency because the typical worker is in the dark about their health care. Even if they have a plan, most of the time they don't have the choice. Most individuals don't have a chance to hold down their health care costs the way we do as Members of Congress. As Members of Congress, we get to choose between a host of private plans. If you are lucky enough to have some employer coverage in our country, you hardly ever have a choice, No. 1, and, No. 2, if your money is being spent inefficiently, there isn't anything you can do about it as an individual. In fact, most people don't even realize the reason their take-home pay doesn't go up is because all of their potential increase in take-home pay when they are more productive seems to go to health care. In fact, Dr. Orszag of the Congressional Budget Office has said there is so much inefficiency in the health care system that nothing much is going to change until people realize they are losing out on take-home pay because their take-home pay goes to pay for their health care.

What we have said as a group in the Senate—eight Democratic Senators and eight Republican Senators—is we want to change this system that is so profoundly unfair to working people and also rewards inefficiency. What we have proposed in our legislation—the Healthy Americans Act—is to take away the Federal tax subsidies for the Cadillac health care plans and use that money instead so every family in America can get a progressive deduction of $15,000 annually to buy their health care.

It is our view that this amounts to a trifecta. Health care would be fairer because we would have taken away those Cadillac tax breaks and given them to the middle-class folks who are having difficulty affording their health care. It would be more efficient because people would have choices of their private health coverage and have new incentives to make purchases carefully. And there would be a progressive way to finance extending coverage for more of our people.

I have watched with great interest the effort in Pennsylvania where wonderful people, such as Governor Rendell and committed State legislators, have been trying to expand coverage. One of the reasons it is hard to do at the State level is there is no progressive way to finance some of the extra coverage for people who are uninsured or underinsured.

We have found that progressive financing in the Healthy Americans Act because we take away the tax breaks for those Cadillac plans used for designer eyeglasses or new smiles, or whatever, and we move that money to hard working families in Oregon and Pennsylvania and Ohio for expanded coverage.

Our approach, as was noted by the head of the Joint Committee on Taxation, would give 80 percent of the American people a tax cut. A typical family spends about $12,000 buying their private health insurance, if they can afford it. We would give a tax cut to 80 percent of the American people with our approach.

The Senator from Pennsylvania and I sat in on a very good meeting yesterday describing some of the questions that accompany making change on big economic issues. People want to know how do you make sure it is not so confusing and your family doesn't get lost in red tape. For example, in health care, people want to know: If I like what I have, can I keep it? I like the idea of looking at alternatives, but if I have a plan and I like it and my employer wants to continue to offer it, can I do it?

What we said in the Healthy Americans Act, sponsored by 16 of us in the Senate, was absolutely. If you want to keep what you have and your employer wants to keep offering it, so be it. But if your employer wants more choices and if you as a worker want more choices, we also provide that kind of opportunity. That is why I have said our proposal operates very much like what all of us—the Senator from Pennsylvania, the Senator from Ohio, and myself—have in the Congress. There is a period of time when we get to choose between the various private insurance policies. The insurers cannot cream skim. They cannot cherry pick and take only healthy people and send everybody who has a health problem somewhere else. We do that in the Healthy Americans Act. With our approach, we can get a lot more for our health care dollar. A lot of people in this country, say if they work for a small employer where they do not have much bargaining power or they are out on their own, cannot get that today.

We set this up so it looks, in terms of its operations, pretty much like the way it works for us as Members of Congress in terms of making our private choices. There are places you can call for help in choosing a plan. And giving everyone these kinds of private choices injects competition and new opportunities to hold down costs into the system.

The issue we talked about yesterday in the Senate Finance Committee, the Federal tax rules, I would guess there is probably not 1 out of 100 people in the United States who knows much about this. But this is one of the biggest programs run by the Federal Government. It comes to about $250 billion a year. And to have the money go out the door in a way that so wildly favors the most fortunate and encourages inefficiency at the same time strikes me as bizarre.

Yesterday, under the leadership of Chairman BAUCUS and Senator GRASSLEY, conversation was started about a topic that I think is essential to this issue of fixing American health care. If we do it right, there is the opportunity for expanding coverage in a progressive way so that the next time, for example, the Pennsylvania legislature wrestles with this issue—this issue that Governor Rendell and Pennsylvania legislators tackled this last year and could not pass legislation on—they would be able to say some changes were made in Federal policy so as to fund in a progressive way some of the changes that need to be made.

There is no question this needs to be done in a careful and deliberate way. We are talking about changing something that started in the 1940s. In the 1940s, it probably made a lot of sense. We were not dealing with a global economy, and people would go to work in Oregon or Pennsylvania at a young age and stay put until you gave them a gold watch and a retirement dinner. The typical worker today changes their job 11 times by the time they are in their early forties. So they need a portable health plan they can take from place to place. We have done that in the Healthy Americans Act as well.

Chairman BAUCUS made a very important point in terms of making sure this is explained to people in a more simple and straightforward way than it has been in the past, certainly than as it was explained in 1993. Then fundamentally it has to be a commitment the Congress makes to our people to say: If you like what you have and employers want to keep offering it, they can do it. I hope they will. But nearly 7 percent of the employers have gotten out of the health business altogether in the last few years and thousands more have heaped on the copayments and the deductibles in the last few years.

We need to have more choices, and 16 Members of the Senate are working toward this goal. This is the first time in the history of this debate, in 60 years of the Senate debating this issue, there has ever been a piece of legislation where a large number of Democrats and Republicans have come together. Senator BENNETT in particular, the Senator from Utah, a member of the Republican leadership, deserves enormous credit for his efforts to help find common ground.

Now we have a chance for the debate as we go into September, with Chairman BAUCUS holding additional hearings in September, and all our colleagues being home and folks asking: What is going to be done about health care? We have a chance now to start that discussion about what it is going to take to fix American health care.

I submit that when people talk about their bills, they are talking about their gas bill, they are talking about their food bill, they are talking about their medical bill, and that medical bill is pumped up—that is the only way you can characterize it—by $700 billion worth of spending that is inefficient and is of little or no value. The Federal Tax Code, as we heard from three of the experts yesterday, props up all that inefficiency. So reforming those Federal tax rules, as we seek to do in the Healthy Americans Act, is a key part of the solution.

I thank Chairman BAUCUS for his leadership for being willing to tackle an issue that lots of people, frankly, have ducked in past years. And I submit that finding a bipartisan solution to these outdated, unfair tax rules—rules that show how broken the health care system is—is a key to holding down the costs that people are so upset about and assure that we attain our goal, which is all Americans have high-quality affordable health care.

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

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

The legislative clerk proceeded to call the roll.

Mr. BROWN. 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. BROWN. Mr. President, I have been in the House of Representatives and the Senate now for about a little over 15 years. One thing you can count on that I have seen over and over is you can always count on Republicans to stand up for Big Oil. We can look in recent memory. We can look at the Energy bill 3 years ago—earlier than that. We can look at the plan Vice President CHENEY wrote in the White House bringing in all the energy executives, not bringing in consumer groups, not bringing in environmentalists, not bringing in small businesses that are hit so hard by high energy costs, not bringing in truckers, not bringing in people who are paying the bills, but bringing in the producers, writing an energy plan, that legislation then written by Big Oil and other big energy producers, pushed through a Republican House of Representatives 3 years ago and a Republican Senate, having given the President everything he wanted on an energy policy.

That is obviously the best example of how always in my 15 years here I have seen Republicans protecting Big Oil. Most recently in the last year and a half, as the Senator from Pennsylvania said so well earlier, we have seen eight filibusters blocking any proposals we have had on energy—short-term proposals, medium-term proposals, long-term proposals.

As the Presiding Officer, Senator CASEY from Pennsylvania, talked about, there is no silver bullet, but there are things we can do immediately. We can open the Strategic Petroleum Reserve, sell 10 percent of the oil from that Reserve, bringing down prices pretty quickly. We can go after the speculators. I am not sure Senator CASEY said this, but the President's Justice Department could go after the oil industry for some of the price gouging that many of us in this body, and probably most of the American public—certainly people in Steubenville and Lima and Zanesville, OH—think the oil companies are engaged in. We can do those things.

A few minutes ago, when I was the Presiding Officer, I heard the minority leader say that the Democrats are offering legislation claiming it is only speculation that is driving up prices. We have never done that. We have said: Yes, speculation is a big part of it. Senator DORGAN said speculation is like a washcloth: you wring it out and you will get an immediate 20, 30, or 40 percent price decrease overall just by wringing out the speculation.

But what the other side never talks about is that it is not just that we want to deal with speculation and open the Strategic Petroleum Reserve and have the Justice Department go after the increasingly, immensely profitable oil industry on price gouging, but we also have a very specific long-term energy plan.

As Senator DORGAN said, President Kennedy didn't say: Let's think about going to the Moon. He said: We are going to put a man on the Moon. It was the early 1960s, and he said we could do it by the end of the decade. And he did it. It happened by July 1969. I was 16 then. We had just gotten our first color television, I remember. My brother had convinced my parents that because of the Moon landing, we should get a color television. My parents didn't really know this wasn't going to be in color, but it was a good move by my brother, I must admit. But I remember looking up in the sky and not seeing anything other than the big white Moon, but how exciting it was that we could do this.

The same thing could be true with the President on alternative energy. That is what the Democratic majority has been trying repeatedly to do, to take the money President Bush, Vice President CHENEY, and the Republican majorities in each U.S. House gave to big oil in 2005 in the Energy bill and put it into alternative energy development.

Senator WHITEHOUSE, speaking earlier this morning, mentioned that for every $10,000 in profits Exxon has made, only $1 of the $10,000 has gone to research and development for alternative energy and $3 has gone into advertising how green they are and how much they are doing on alternative energy. Senator CASEY talked about the incredible increase in oil drilling in the last few years; that the oil companies are drilling plenty, but they understand how to keep prices up.

So I am for more drilling, but I am not for drilling in the Outer Continental Shelf. I am for the oil companies drilling on the 68 million acres of Federal lands on which they already have leases. Let's do that first, and let's see where we are on that discussion of drilling. We can't drill ourselves out of this, it is clear.

Last point, Mr. President, and then I wish to speak for a moment about something related to energy; that is, throughout my time in the House of Representatives and the Senate in the last 15 or so years, I have always noticed that oil prices go up when one of four things happens: Either there is a refinery fire or there is a pipeline outage or there is a major catastrophe, such as Katrina, or there is an international incident that disrupts the flow of oil to our country. It is either a major refinery fire, a major pipeline outage, a major disaster such as Hurricane Katrina, or a major international incident that disrupts the flow of oil to our country.

None of those things has happened in the last couple of years. Sure, China and India are using more oil, and that is a long-term, huge issue in terms of the oil crisis, but to see the kinds of oil spikes we have seen in the last year and to look at what we have seen, frankly, in the 8 years of two oilmen in the White House—we know that story—nothing has happened that should have caused oil prices to go up that dramatically. If anything, that absolutely shows it is all, in large part, about speculation, and it is about the price gaming of the system that the oil industry and Wall Street have done.

As we talk about energy, we often talk about what that means to our Nation's infrastructure. Today marks the 1-year anniversary of the I–35 bridge collapse in Minneapolis. Our freshman colleague, Senator KLOBUCHAR, has spoken eloquently about that and what we need to do about that. It took the lives, as we remember, of 13 people and injured nearly 100.

The Minnesota bridge collapse was a rude awakening to Americans about the current state of our critical infrastructure and the importance of improving all aspects of bridge safety.

Corrosion, for example, which causes metal in bridges to rust and ultimately weaken, is a significant problem for our Nation's bridges but one that is resolvable if addressed by Congress.

In 1998, there was an amendment to ISTEA, the highway bill. Congress commissioned a report about the cost of corrosion—a report from the Federal Highway Administration—and that report to Congress, conducted by CC Technologies of Dublin, OH, a community near Columbus, has estimated that corrosion costs the Nation an unbelievable 3-plus percent of gross domestic product annually, or $442 billion last year. In my State alone, corrosion ultimately cost Ohio taxpayers, in damage to bridges and highways and other infrastructure, $15.1 billion. For bridges alone, this country spent $13 billion and $500 million in Ohio in 2007. In that same report, the FHA estimated a third of that cost could be prevented through existing corrosion-control technologies.

There are many bills pending before this Congress that would lessen or prevent future corrosion of our Nation's infrastructure.

S. 3319 requires that any proposal to the Department of Transportation for bridge construction or modification or renovation include a corrosion mitigation and prevention plan. When a State highway department submits a proposal to the Department of Transportation about this, under this legislation—there is no demand or other mandate—it must include a corrosion mitigation and prevention plan that looks at how much money it will cost to do the corrosion prevention and mitigation and see how much money over the next 10, 20, or 30 years the taxpayers will save because these bridges will last longer and will be safer in the ensuing years. This plan would incorporate existing technologies to enhance the safety of bridges and save Ohio and the Nation billions of dollars a year at a time when highway funding is suffering severely from a dramatic rise in construction cost.

The reason I talked earlier about energy and connected it to these highway issues and bridge issues and water and sewer issues is that the gas tax—which certainly funds much of our highway and bridge infrastructure, the construction and maintenance—the tax dollars are not increasing, and it is because it is not a percentage of the cost of oil, of the cost of gas, it is the cost per gallon of gas purchased. So as people are using less, revenues are down, and obviously construction costs are up as asphalt and other oil-based materials are included in the construction.

S. 3316, a separate piece of legislation I have introduced, would provide a 50-percent tax credit to companies for the design, materials, and installation of corrosion-mitigation technology. The tax credits would encourage further work in corrosion mitigation, expanding beyond bridges to include all kinds of infrastructure affected by corrosion, including drinking water and sewer systems, motor vehicles, pipelines, and defense infrastructure.

I know that the Senator from Pennsylvania, when he is in Erie or Sharon, close to my State, or when he is in eastern or central Pennsylvania, hears over and over from mayors, as I do, about the problems with infrastructure and what that means to the cost of people's water and sewer bills. Mayor Coleman of Columbus told me months ago what he was facing—more importantly, what consumers, what homeowners and renters in Columbus are facing—with the increased cost of water and sewer bills because of demands from the Federal Government on what we need to do to guarantee safe drinking water, demands local governments want to meet but at costs which they simply can't bear. So homeowners see double-digit increases in the cost of their water and sewer.

I met recently with the mayor of Defiance, Mayor Armstrong, in northwest Ohio at a roundtable—one of the hundred or so roundtables I have conducted in most of Ohio's 88 counties—and I talked to him about what these costs are meaning to him in terms of sewer and water bills for residents of Defiance and Defiance County.

A few months before that, I had a roundtable with the mayors of Fremont, Paulding, and Perrysburg, again in northwestern Ohio. Mayor Overmyer of Fremont, Mayor White of Paulding, and Mayor Evans of Perrysburg, where the meeting was conducted—Perrysburg City Hall in Wood County—were all telling me about the immense costs they were facing and, again, more importantly, their constituents were facing with the high cost of water and sewer.

Corrosion protection plans of this type can make a big difference in relieving the cost of all kinds of infrastructure. The new I–35 bridge project is under heightened scrutiny from everybody—public officials, the media, and obviously Minnesotans who travel that bridge regularly to and from work. Their new bridge will be equipped with the best technology available, including built-in sensors to measure corrosion.

With all these bridge projects in other places, we should have this level of attention and they should be outfitted with robust safety technology and anticorrosion technology. The technology is pretty far down the road. We are able to do an awful lot of things to arrest and almost stop corrosion and the aging of these bridges. Our legislation will not just utilize the technology that is available now, but it will spur on new technologies to arrest bridge corrosion.

Anticorrosion and corrosion-detection measures save money and lives. It is nothing but shortsighted to bypass such measures. For too long, we have governed in a way that has sort of gotten us through the day, thinking that we have to figure out how to get through today and not looking ahead. Business doesn't look often enough beyond the next quarter, and government doesn't look often enough beyond the next election cycle. This is an opportunity for the Nation to use its research and development talent to address the unnecessary and enormously costly burden we bear as our infrastructure rusts away and needs to be replaced.

We remember the Minnesota bridge collapse of 1 year ago. This body can honor the memory of those who died there and learn our lesson from looking ahead and helping local and State governments adopt these anticorrosion measures. It will ultimately save lives and billions of taxpayer dollars. It is something we can do, and it is something we should begin today.

Mr. President, I yield the floor, and 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. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

HOUSING AND ECONOMIC RECOVERY ACT OF 2008

Mr. DODD. Mr. President, I wish to take a few minutes, if I may, before we conclude business here today, and then basically I guess we will be in either adjournment or recess until the first week in September. I wish to take a moment or so and review the events of the past number of weeks, culminating in the vote a week or so ago on the housing legislation. Of course, the Presiding Officer played a very important and supportive role, and I appreciate immensely his participation on the Banking Committee and the effort we made together to achieve what I think is a fairly historic piece of legislation.

The news from the housing and financial markets continues to be grim. Unfortunately, the new Case-Schiller Index—which most people are familiar with and which is used to determine the level of home values—Case-Schiller data earlier this week shows that home prices were down 15.8 Percent from May of last year, including a .9-percent, 1-month drop in the month of May alone. The 10-city price index, which dates to 1988, dropped 16.9 percent, its sharpest decline on record since those numbers have been kept over the last 20 years. All 20 cities measured by the index showed annual declines in home values, and 10 cities have suffered double-digit percentage declines over the last year.

Job data is not any better, I am sad to point out. It shows a loss of 50,000 jobs. The unemployment rate now is at 5.7 percent.

Earlier this week, the President signed the Housing and Economic Recovery Act. I am grateful to him for that signature. He earlier indicated he was going to veto the bill but changed his mind. I, for one, appreciate that

change of mind, because I think it is an important message to send to markets about the importance of this bill. I wish to quickly point out that the President didn't like every provision in this bill, nor did I necessarily, for that matter, but he signed it into law and for that we are grateful.

This legislation is a crucial response to the ongoing housing and economic crisis. Most of the legislation took effect immediately upon it being signed into law by the President. Already, the new regulator for the housing GSEs is on the job. We are not even a week into the bill and he is already there, preparing to write the numerous new regulations required by this law.

On Tuesday, before the President even signed the bill, I met with members of the oversight board of the new HOPE for Homeowners program: the Chairman of the Federal Reserve, Chairman Bernanke; the Chairman of the Federal Deposit Insurance Corporation, Sheila Bair; the Secretary of the Treasury, Secretary Paulson; and the Secretary of Housing and Urban Development, Secretary Preston. We all met in my office as the oversight board. I urged them to get to work immediately. They assured me they were doing that. In fact, the very next day they were having the very first meeting of the oversight board. I commend them for that. Anywhere from 400,000 to 600,000 families can keep their homes if, in fact, that program works as we all hope it will.

Next week, my staff is meeting with HUD staff to push them to complete the regulations to get out the $3.9 billion in Community Development Block Grant funds. For Connecticut, as well as Pennsylvania and other States, these dollars could be very valuable in restoring neighborhoods and homes that have been foreclosed, getting them back on the market and producing those tax revenues every community needs in order to provide services to its people. The law requires HUD to have a formula for the distribution of this money ready in 60 days, and I intend to make sure this deadline is met, hence the reason for the meeting with the HUD staff.

The Housing and Economic Recovery Act has a number of provisions that will make a real difference in people's lives, and I want my colleagues to be able to explain them to their constituents as they travel around their States over the next several weeks. First and foremost, the bill establishes the HOPE for Homeowners Act to help 400,000 families keep their homes. It does so after asking both lenders and borrowers to make financial sacrifices, and it does so at absolutely no cost to taxpayers. This program will become effective on October 1.

In addition to providing a much stronger regulator, the bill increases the loan limits for Fannie Mae and Freddie Mac to $625,000. These GSEs—government-sponsored enterprises—along with the Federal Housing Administration, have been about the only sources of mortgage credit available to most Americans. This will make this credit more widely available to more families seeking to buy or to refinance their homes.

The bill modernizes and expands the Federal Housing Administration programs, raising the loan limits from $362,000 to $625,000, so that 98 percent of the counties in our country and 85 percent of the population of our Nation will have access to this very critical program. FHA has proved its value over and over again, particularly in the current crisis, as it has continued to be a stable source of mortgage credit, even while many of the lenders have failed. By raising these loan limits, that credit line now becomes available, as I said, to more than 85 percent of the population of our country.

The bill also includes a permanent, affordable housing fund financed by Fannie Mae and Freddie Mac. This is the first time ever in the history of our Nation we have established a permanent affordable housing program. Ninety percent of these dollars will go for the construction of rental housing. This will take a little time to get in place and will not immediately come on line as other provisions of the bill will, but for the long-term needs of our country, including the ability to build affordable housing every single year as a result of GSE money, is going to provide great relief for those who can't afford a home, those who are starting out and need to have affordable rental housing.

The bill includes new protections for elderly homeowners taking out the FHA-insured reverse mortgages so they are not deceived into using the proceeds from these loans to buy expensive and needless insurance products. It will require mortgage brokers to be licensed. Again, that is a major reform in this legislation.

The bill expands the ability of the VA housing programs. It includes a number of provisions to help our returning veterans coming back from Iraq and Afghanistan and elsewhere to save their homes from foreclosure. Tragically, you would be amazed at how many of our service men and women serving in harm's way are at risk of losing their properties while they are serving overseas. This bill changes that by providing new housing benefits to our veterans.

The legislation includes $3.9 billion, as I mentioned, in Community Development Block Grant funds. These are dollars that go directly back to our communities to allow them to rehabilitate homes and revitalize neighborhoods that have been devastated by the foreclosure problem. Remember, 8,000 to 9,000 people every day end up in foreclosure—8,000 to 9,000 homes every day. Certain neighborhoods in our States and in our cities have been literally devastated by foreclosures. These dollars will help to get those neighborhoods back on their feet.

Finally, the bill includes $150 million in counseling money to organizations out there trying to bring lenders and borrowers together.

Let me take advantage of this moment to urge my colleagues to do what I am going to be doing in my own State, and that is doing public service announcements, asking my media outlets on a daily basis to inform people as to what they can do. If they are delinquent in their mortgages, they may very well qualify for this program we have passed in the Congress, where they can save that house. It is not going to be free of charge; they are going to have some obligations to meet. It is not for everyone. You have to be an owner-occupier. It is not for speculative investments people have made. I urge people to call their banks, call one of these nonprofits, call the office of your Congressman or Senator, and they will tell you how to get in touch with them, but don't allow another month or two to go by on a delinquent basis. You may end up losing a home that you need to have, and it is possible to save that property if you will step up.

So I urge my colleagues, if they are interested in doing what they can for their constituents in the month of August, to find the time to talk about this program, let your constituents know it exists, urge them to step forward, urge your lenders to be in touch with borrowers to see if we can't avoid the kind of continuing foreclosure issues that are going to make our economic recovery difficult.

I will end on this note: The heart of our economic problems, whether it is the unemployment problems, the staggering lack of commercial development that is going on, the problem with student loans—all of it relates back to the foreclosure issue. The sooner we can stop this hemorrhaging of foreclosures in the country, the quicker we are going to get back on our feet economically. So this is not just about saving homes or keeping people in their homes; it is also dealing with the contagion effect that has spread over to other aspects of our economy.

I wanted to take advantage of these closing moments to talk about the bill, to talk about what is in it, and urge our colleagues—Democrats, Republicans—whether you are for the bill or against the bill, there is an opportunity now to make a difference for the people you represent.

With that, 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.

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

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

MISSED ENERGY OPPORTUNITIES

Ms. CANTWELL. Mr. President, I rise today to put some facts on the

table about the high cost of energy. I know many of my colleagues have left town, but some are still here. And even though today is August 1, I doubt that it is the last we are going to hear on this debate. I expect that we will hear about it all during August.

I come to the floor this afternoon to just put a few last remarks into the RECORD about what I think this debate has been about and what I think it will be about when we return. I know some of my colleagues have put out statements today about what they think we should do in moving forward. I think it is very important to address the issue of the high cost of energy and to put forth a realistic plan for our country to move forward.

Many times this week we heard the slogan: Find more and use less. It reminds me of the slogans we hear on oil company commercials who spend hundreds of millions of dollars saying things such as ''beyond petroleum,'' and ''look at the future we are planning.'' They are spending all of that money trying to convince us they have a plan, when in reality they are keeping us addicted to oil.

Mr. President, now is not the time to worry about big oil. They just posted astronomical second quarter profits. ExxonMobil alone made about $130 million a day—not bad for a hard day's work impacting consumers. In fact, since the Bush Administration came into office, oil industry profits have totaled $641 billion. And as this chart shows every year's profit was greater than the last.

The complexity of this issue is that many colleagues really think that drilling more is going to solve our nation's energy crisis. But the clear facts is it is not going to; drilling more will just continue to add to the profits of these companies at a time when we should be investing in clean energy solutions.

So now is not the time to give the American people the false hope that drilling is going to have any effect on oil prices or provide any drop of relief at the pump. Now is not the time to play politics and to try to continue to play the blame game.

Instead now is the time to realize that our economy can't take much more of this. We simply have to get off of oil. It is time, after 8 years of an administration with a dead-end oil policy, that we understand the long-term cost of our addiction to oil and how it is strangling our economy and our vitality. Because unless we change course, and change course soon, we soon will be sending $1 trillion abroad to cover our foreign oil addiction. No amount of drilling—no amount—in the United States will change that fact.

Just a few years ago I would come to the floor and talk about how we were 50-percent dependent, heading toward 60-percent dependent on foreign oil. Now we are talking about being 70-percent dependent and even more unless we change course.

I think it is safe to say that the last 8 years of this administration has done great damage to the continuation of our addiction to foreign oil. We have tried their approach. It doesn't work. So what we need to do today is move ahead.

We need to admit the United States consumes one-quarter of the world's oil but only has less than 2 percent of the world's oil reserves. We will never, ever be able to affect the world oil price. Even if we drilled in every corner of God's creation in the United States, we would not be able to affect the world price of oil.

Americans can do the math. They know we need to be aggressively putting new policies into place that will make us a 21st century leader in new energy solutions. That is what we should be doing in the Senate as well.

Unfortunately, it seems as though many of my colleagues aren't doing this simple math. Instead, they are trying to exploit the current crisis and convince us that we should continue this oil addiction. That the answer is to give big oil one of their top legislative priorities—one they have wished for for several decades breaking the quarter-century-old moratorium on drilling off of America's pristine coast.

Pro-drilling advocates and certainly the President of the United States seem perfectly comfortable perpetrating what I think is a cruel hoax on the American people. They are willing to imply, to insinuate, and to outright pretend that drilling off our coastlines will help provide some relief at the pump. They are willing to pretend that drilling will somehow lessen our dangerous dependence on foreign oil.

Though my colleagues on the other side of the aisle do not like to admit this, the American people can listen to experts at the Department of Energy who say:

> Access to the Pacific, Atlantic, and eastern Gulf Coast regions would not have a significant impact on domestic crude oil and natural gas production or prices before 2030.

We heard that 2030 is the magic year by which drilling in the Outer Continental Shelf would produce supply. But our own Energy Information Administration said that access to the Pacific, Atlantic, and eastern gulf coast regions would not have a significant impact on the price before 2030.

I know we had a lot of discussion about the psychological impact, but oil industry experts have testified before Congress that the notion of more drilling would have no psychological effect on world oil prices. That is from oil analysts who have written books about oil and covered it for many years.

But even in 22 years the offshore drilling scheme will not provide consumers relief. This is what the Energy Information Administration said:

> Because oil prices are determined on the international market, any impact on average wellhead prices is expected to be insignificant.

So the notion that somehow our drilling is going to help us relieve the price when we are such a small player on the world market is really a hoax. We are not going to be able to have any significant impact on the price.

Even if we drilled in every last corner of our great Nation it would not have any impact. We will never be able to drill our way out of the fact that our addiction to oil leaves critical aspects of our economy in the hands of OPEC.

We do not have 22 years to wait. We need to be aggressive in getting off oil and move ahead. I know many of my colleagues really think the drilling that has been talked about here will provide relief, and they assume that oil companies would invest the tens of billions of dollars it would take to drill up and down our coastlines. I guess we should ignore for the moment that these same oil companies are not even utilizing 83 percent of the leases they already have.

But the truth is that all the drilling will do, even post-2030, is lead to 1 percent of what the United States needs. That is right, if we go ahead and lift the moratorium on Outer Continental Shelf drilling and that process starts and we get to 2030, the United States will still need over 22 million barrels of oil a day. That is what our growth rate is expected to be under the status quo. Drilling in the 600-million-acre moratorium areas would only meet 1 percent of U.S. needs in 2030. All that money, all that risk of catastrophic spills, all the years of waiting, and that is the payoff—1 percent.

It is not good enough, and the American people need and deserve better solutions. That is what, when we return, we have to focus on.

There is a way out of this hole. It is definitely not drilling deeper, and it is time to say enough is enough and that we have to change course. My colleagues who use a chart that says ''Find More, Use Less'' on the other side of the aisle have the same empty slogan as those oil company ads that pretend they are the solution.

In fact, I think the solution my colleagues on the other side of the aisle ought to consider is: Find more and hold up less. They ought to hold up less legislation that allows us to move forward on a renewable energy strategy. Find more renewable energy and sources of power and production for the United States that can impact the price consumers are paying now, can impact what they are going to have to pay in 2009, and what they can do to get us moving off our oil addiction.

I say hold up less, because if we look at what has happened in the last year or two, we have had many proposals to move ahead off oil and on to clean energy sources that would have impacted the price at the pump. In fact, what this chart shows is the dozen times the other side of the aisle held up critical clean energy bills.

Starting in June of 2007, when we had a $28 billion clean energy package that we tried to pass. This bill would have eliminated some of the subsidies that

oil companies got embedded in the Tax Code, because if we are at $126 or $140 a barrel of oil, it is pretty hard to argue that oil companies still need tax incentives.

One of the best parts of this legislative package created a consumer tax credit of up to $7,500 toward the purchase of plug-in electric vehicle. That was a provision I authored with Senator HATCH and Senator OBAMA. I know many of my colleagues on the other side of the aisle have talked a lot recently about the great promise of plug-in hybrids and electric vehicles as a way to get us off our addiction to oil.

I talked about that 1 percent that was going to be supplied by drilling by 2030. If we invested in plug-in electric vehicles over roughly the same period of time, using electricity from our grid for fuel, we could have a 50-percent reduction in the amount of foreign oil we would need to import.

So the Republican plan by 2030 is to drill everywhere to reduce foreign oil needs by 200,000 barrels of oil per day. Our plan, which is investment in clean and alternative energy solutions, like the plug-in electric vehicles would reduce foreign oil imports by 6.5 million barrels of oil a day over the same time period.

The difference is unbelievable what we could have achieved if the Republicans would have stopped holding up these policies.

And my colleagues on the other side of the aisle are saying: We are not supporting plug-in electric vehicles unless you give us offshore drilling. They are saying we are holding hostage the great ideas and promise of the future of reducing our oil dependence unless you agree to continue the old, insane practices of giving incentives to oil companies with record profits to continue to provide the non-solutions to one of our nation's greatest problems.

It is time to get the solutions out of the hands of the oil companies and into the hands of the American public who want tools to reduce their oil consumption.

Literally, my colleagues voted no for cars that could get over 100 miles per gallon on the equivalent of $1 of gasoline. That is right, that is what a plug-in hybrid will get you. That analysis and study is there, that our nation's electricity grid today has enough spare capacity to power 70 percent of cars on the road today if they were electric hybrids. So instead of paying $3.99 for a gallon of gas, you would only pay about one dollar for the same amount of electricity.

This was just one realistic proposal the majority offered to move our nation to where we need to go. But every time they vote no on one of these proposals, we slow up the process. Voting no in June of 2007 was holding us up to going to that transition.

So I am glad other people on the other side of the aisle realize the promise of plug-in electrics, but they are not voting to help us break through and implement these solutions that could help us today and break the shackles of big oil.

As I mentioned, this was a bipartisan bill that Senators HATCH, OBAMA, and I introduced over a year ago. Our bill provides scalable credits that increase up to $15,000 for large vehicles. We had this big discussion about what cars Americans drive, how big, how small, safety issues, farm vehicles, big transportation vehicles. The great thing about plug-in hybrids and battery technology moving us forward is we can put those in any size vehicle. We are not going to be limited to a small car. The legislation would also provide assistance for automakers and parts manufacturers to retool their facilities to speed up the transition time.

So the Hatch-Cantwell-Obama bill would have been very progressive in getting solutions out into the marketplace that could have gotten us toward that goal we need to get to quickly.

Unfortunately, in December of 2007, there was another blocked attempt for us to change this policy. In December of last year, the majority of Senate Republicans blocked what would have created a renewable electricity standard. That is something even President Bush, when he was Governor of Texas, supported and today Texas is the nation's largest wind energy producer for our country. But Republican obstructionism cost us over 90,000 megawatts of new renewable energy capacity by 2020. That is the equivalent of 135 new coal-fired powerplants.

If they had not blocked this legislation in December of last year, we could have been on our way in 2020 to reducing the amount of coal-fired powerplants that we would have had in our country and getting on to renewable wind energy. The billions of dollars in clean energy investment, tens of thousands of jobs could be making an incredible positive impact, more so than any drilling offshore could ever be.

Then, just a few days later, there was another blocked attempt to move toward a clean energy transition when Republicans blocked a smaller clean energy tax incentive package that also would have ended subsidies to the big oil companies that have made these record profits. Even this scaled-back approach was too much for big oil, and they basically made their voice heard on Capitol Hill. Big oil refused to give up what was $13 billion in unwarranted tax breaks over 10 years, despite hundreds of billions in profits over the last 8 years.

Mr. President, the American people should know that Senators that voted against that bill voted against solar power, against wind power, against making homes and our commercial buildings more efficient. Against incentives for homeowners to lower their home heating and cooling bills and against making the electricity grid smarter, less prone to blackouts, and against plug-in vehicles.

Last February, there was another successful effort to block $6 billion of clean energy tax incentives on the stimulus bill. This time we gave up and said: You know what, forget the oil company subsidies, we would like to get rid of them, but you don't want to get rid of them, so let's put this as part of the stimulus package and let's stimulate our economy by moving forward. The stimulus bill reported by the Finance Committee had $6 billion in clean energy incentives that would have provided a short-term extension of expiring tax credits and help us stimulate the clean energy economy instead of having it bleed a slow death.

But we failed to pass that legislation. It would have helped us with the creation of 100,000 green-collar jobs and $20 billion in energy investment over the next year. If $20 billion was not stimulus and 100,000 green energy jobs, I don't know what was. Yet that was another big hold on our ability to move forward.

The bottom line is, we cannot keep up this slogan of saying: Find more, use less. We need to find more clean energy and hold up less legislation that will let us get there. Quit holding hostage clean energy legislation that is the truer predictor of domestic energy production, of if we are going to continue to be hostage to foreign oil, of if we are going to make progress of moving the United States forward. But again our colleagues held us up on moving to that legislation.

In fact, it was interesting that during the time of this vote, some of my colleagues were actually out campaigning at a solar plant. The CEO at the solar plant during that debate said:

> The only question before us today is if the Senate, which is debating an economic stimulus bill at this very moment, understands green and can be green. Federal tax credits for solar energy are about to expire which will send the growing solar energy into a tailspin, especially here in California. But the Senate can ensure we keep the economic engine moving forward and extend the solar tax credits as part of the economic stimulus bill.

We know what the result was. We didn't pass that legislation. And the blockage continued.

In June of this year, blocking continued on a tri-partisan bill on the Senate floor. That is right, a climate change bill authored by an Independent, Republican, and a Democrat that would have had a low carbon fuel standard in it that would have saved an estimated 5 million barrels of oil per day by 2020. That is equal to nearly 85 percent of our daily oil imports from OPEC. Another missed opportunity, because that legislation didn't pass.

On June 10, we had another opportunity to try to pass clean energy legislation that would have helped us in reducing our critical energy needs. There were hundreds of businesses that were up here on the Hill asking for us to pass this legislation, telling us that new job creation and reduction of fuel costs depended on it, and yet, again, we had a blockage of this legislation. And it seemed, in fact, that many people

cared more about the hedge fund managers' ability to use offshore accounts to avoid paying taxes than they did whether we were going to solve this energy problem by making an investment in new energy. So again we had a blocked vote that prohibited us from taking action and taking our country in a new direction.

That same day we tried a second vote and again were blocked in a comprehensive effort to get oil companies to either reinvest a portion of their astronomical profits into these needed areas of infrastructure or pay the tax so we could help clean energy solutions. And you guessed it, it was also blocked and held up.

About 6 weeks ago, on June 17, there was another blocked attempt when we tried to come up with a resolution to the long overdue extensions of clean energy tax incentives. Again, a strict party-line discipline maintained a filibuster, and companies across America started to lose hope that we were going to keep this investment cycle.

The problem is, without the tax incentives every year, where we have failed to produce a coherent policy on clean energy, we have seen astronomical drops in investment. As this chart of wind energy investment shows there was a 73-percent drop in 2001 to 2002, and a 77-percent drop from 2003 to 2004, the two times Congress allowed the Production Tax Credit to expire. And this is where we have gotten in 2007—this level of investment in wind energy resources. Yet now it is collapsing right in front of us because certain Senators would not pass legislation to make continued investments and continued predictable policy that the clean energy industry can use to put up new power plants.

In fact, around this time I got a letter from a company that I think illustrates the mistake we made. It came from a solar company named Abengoa and the Arizona Public Service, a local utility company. They told me that the Senate's failure to pass clean energy tax incentives was going to lead to the cancellation of a 280-megawatt concentrating solar plant near Phoenix. That is a $1 billion investment down the drain, and 2,000 construction jobs that will not happen, as well as 80 full-time jobs lost that would have run the plant.

So we tried many times, but they continued blocking these critical bills. The filibustering just this week just further illustrates this issue.

It is frustrating because we have even heard from those who have been in the oil industry such as T. Boone Pickens and others who say that unless we aggressively act to reduce our dependence on oil and get off of foreign petroleum, we could see, as Mr. Pickens told us at one of our Senate hearings last week, $300-a-barrel oil.

I don't think any of my colleagues want to see that. So I hope my colleagues go home and understand that our future lies in providing opportunities to find more renewable production, not drilling hoaxes. I hope they will quit holding clean energy hostage for the oil company executives; quit holding up the good legislation that could move our country forward.

I hope my colleagues will come back to the Senate in September with the notion in mind that reducing by 50 percent our dependence on foreign oil by accelerating the transition to plug-in electric vehicles should be our goal. That they will realize that holding up good legislation hostage for the 1 percent—the 1 percent—we might get from our Outer Continental Shelf drilling is risking our country's future.

This is the time to make the transition, and I hope my colleagues will hear that and understand it is not time to keep perpetrating hoaxes backed by and focused on by the oil companies. Rather its time to stop the politics and get serious about implementing a plan that gets our country off our dependence on oil. So I hope when we get back in September the other side of the aisle will quit holding up these critical clean energy bills and work with us to move forward on a desperately needed new energy strategy for the United States that will provide real price relief for Americans.

I thank the Presiding Officer, and I yield the floor.

RAILROAD SAFETY ENHANCEMENT ACT

Ms. CANTWELL. Mr. President, I ask unanimous consent that the Commerce Committee be discharged from further consideration of H.R. 2095, and that the Senate proceed to its immediate consideration.

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

The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2095) to amend title 49, United States Code, to prevent railroad fatalities, injuries, and hazardous material releases, to authorize the Federal Railroad Safety Administration, and for other purposes.

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

Ms. CANTWELL. Mr. President, I ask unanimous consent that a Lautenberg-Smith substitute amendment, which is at the desk, be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table with no intervening action or debate, and any statements related to the bill be printed in the RECORD.

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

The amendment (No. 5259) was agreed to. (The amendment is printed in today's RECORD under ''Text of Amendments.'')

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 2095), as amended, was read the third time and passed.

ELWOOD ''BUD'' LINK DEPARTMENT OF VETERANS AFFAIRS OUTPATIENT CLINIC

Ms. CANTWELL. Mr. President, I ask unanimous consent that the Veterans' Affairs Committee be discharged from further consideration of H.R. 2245 and that the Senate proceed to its immediate consideration.

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

The assistant legislative clerk read as follows:

A bill (H.R. 2245) to designate the Department of Veterans Affairs outpatient clinic in Wenatchee, Washington, as the Elwood ''Bud'' Link Department of Veterans Affairs Outpatient Clinic.

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

Ms. CANTWELL. Mr. President, I ask unanimous consent that the bill be read a third time, passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements be printed in the RECORD.

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

The bill (H.R. 2245) was ordered to a third reading, was read the third time, and passed.

SSI EXTENSION FOR ELDERLY AND DISABLED REFUGEES ACT

Ms. CANTWELL. Mr. President, I ask unanimous consent that the Committee on Finance be discharged from further consideration of H.R. 2608 and the Senate proceed to its immediate consideration.

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

The assistant legislative clerk read as follows:

A bill (H.R. 2608) to amend section 402 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to provide, in fiscal years 2008 through 2010, extensions of supplemental security income for refugees, asylees, and certain other humanitarian immigrants, and to amend the Internal Revenue Code to collect unemployment compensation debts resulting from fraud.

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

Mr. SMITH. Mr. President, I rise to extend my appreciation that the Senate will pass the ''SSI Extension for Elderly and Disabled Refugees Act.'' I thank Chairman BAUCUS and Senator GRASSLEY for their help in moving this important legislation to the President. This is a bill that I introduced in the Senate with Senator KOHL and it will make a significant impact in helping our most vulnerable asylees and refugees. I also want to thank Senator SPECTER for his tremendous support of this bill and help in negotiating a final package. The passage of this bill sends a message that we have not and will not turn our back on those whom we have welcomed to our country.

As many of you may know, Congress modified the Supplemental Security

Income—SSI—program to include a 7-year time limit on the receipt of benefits for refugees and asylees. To allow adequate time for asylees and refugees to become naturalized citizens, Congress provided the 7-year time limit before the expiration of SSI benefits. Unfortunately, the naturalization process often takes longer than 7 years. Applicants are required to live in the United States for a minimum of 5 years prior to applying for citizenship. In addition to that time period, their application process often can take 3 or more years before there is resolution.

Because of this time delay, many individuals are trapped in the system and faced with the loss of their SSI benefits. In fact, by the end of 2008 more than 30,000 elderly and disabled refugees will have lost their benefits and more than 19,000 are projected to lose their benefits in the coming years.

Many of these individuals are elderly refugees who fled persecution or torture in their home countries. They include Jewish refugees fleeing religious persecution in the former Soviet Union, Iraqi Kurds fleeing the Saddam Hussein regime, Cubans and Hmong people from the highlands of Laos who served on the side of the United States military during the Vietnam War. They are elderly and unable to work, and have become reliant on their SSI benefits as their primary income. To penalize them because of delays encountered through the bureaucratic process seems unjust and inappropriate.

The administration, in its fiscal year 2009 budget, acknowledged the necessity of correcting this problem by dedicating funding to extend refugee eligibility for SSI beyond the 7-year limit. This legislation builds upon those efforts by allowing an additional 2 years of benefits for elderly and disabled refugees, asylees, and other qualified humanitarian immigrants, including those whose benefits have expired in the recent past.

The Senate version requires that eligible individuals demonstrate that they are moving toward citizenship in order to gain the additional 2-year extension of benefits. While the Act provides flexibility to the Social Security Administration—SSA—and the Department of Homeland Security—DHS—in developing a procedure whereby they can verify an applicant's eligibility for the extension of benefits, it is our intent that whatever procedure SSA and DHS establish, it does not impose any undue burdens or barriers on the benefactors of this Act.

Additionally, the bill allows benefits to be extended for a third year for those refugees who are awaiting a decision on a pending naturalization application. These policies are limited to 2011 and are completely offset in cost by a provision that will allow the Department of Labor to recapture federal funds that are the result of unemployment insurance fraud.

I again thank my colleagues for their support of this bill and for its passage.

Ms. CANTWELL. Mr. President, I ask unanimous consent that the Smith substitute at the desk be agreed to, the bill as amended be read a third time and passed, the title amendment be agreed to, the motion to reconsider be laid on the table, and any statements be printed in the RECORD.

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

The amendment (No. 5260) was agreed to.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

The amendment was ordered to be engrossed and the bill read a third time.

The bill (H.R. 2608), as amended, was read the third time and passed.

The amendment (No. 5261) was agreed to, as follows:

Amend the title so as to read; ''An Act to amend section 402 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to provide, in fiscal years 2009 and 2011, extensions of supplemental security income for refugees, asylees, and certain other humanitarian immigrants, and to amend the Internal Revenue Code of 1986 to collect unemployment compensation debts resulting from fraud.''.

BRUCE W. CARTER DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER

Ms. CANTWELL. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs by discharged from further consideration of H.R. 4918 and the Senate then proceed to its immediate consideration.

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

The assistant legislative clerk read as follows:

A bill (H.R. 4918) to name the Department of Veterans Affairs medical center in Miami, Florida, as the ''Bruce W. Carter Department of Veterans Affairs Medical Center.''

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

Ms. CANTWELL. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid on the table with to intervening action or debate, and any statements be printed in the RECORD.

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

The bill (H.R. 4918) was ordered to be read a third time, was read the third time, and passed.

CHARLES L. BRIEANT, JR., FEDERAL BUILDING AND UNITED STATES COURTHOUSE

Ms. CANTWELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 6340, which was received from the House.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 6340) to designate the Federal building and United States courthouse located at 300 Quarropas Street in White Plains, New York, as the ''Charles L. Brieant, Jr., Federal Building and United States Courthouse.''

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

Ms. CANTWELL. Mr. President, I ask unanimous consent that the bill be read three times and passed, the motion to reconsider be laid on the table, and any statements be printed in the RECORD.

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

The bill (H.R. 6340) was ordered to be read a third time, was read the third time, and passed.

HUBBARD ACT

Ms. CANTWELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 6580, which was received from the House.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 6580) to ensure the fair treatment of a member of the Armed Forces who is discharged from the Armed Forces, at the request of the member, pursuant to the Department of Defense policy permitting the early discharge of a member who is the only surviving child in a family in which the father or mother, or one or more siblings, served in the Armed Forces and, because of hazards incident to such service, was killed, died as a result of wounds, accident, or disease, is in a captured or missing in action status, or is permanently disabled, to amend the Internal Revenue Code of 1986 to repeal the dollar limitation on contributions to funeral trusts, and for other purposes.

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

Mr. GRASSLEY. Mr. President, I rise in support of the Hubbard Act.

This important legislation helps our service men and women in uniform who are the ''sole survivor''—only surviving child in a family in which one of their family members has died or been killed due to their military service. Under the current ''sole survivor'' policy of the Armed Forces, there are no standard benefits available to those who separate from the Armed Forces under this policy.

The legislation corrects a flaw, allowing sole survivors to qualify for a standard set of Federal benefits that are generally available to other veterans.

I would like to comment on the bill's other provision. Section 9 would repeal the dollar limitations on contributions to funeral trusts. In the Senate, this provision was authored by the Senator from Utah, Mr. HATCH. It has been included to offset the additional spending associated with the bill's sole survivor provisions.

As I have consistently said in the past, the Senate Finance Committee is not a piggy bank for the other committees to dip into to pay for their new

spending proposals. My preference would have been to have the sole survivor provisions in this legislation funded by spending reductions by the committees of jurisdiction.

I have been told that option was not available for this bill.

The funeral trust provision under Section 9, is a taxpayer favorable provision. It is a purely voluntary provision. It helps people who want to put more money aside in trust to provide for their funeral.

Unlike prior revenue raisers proposed by the majority that would impose tax increases on unsuspecting Americans, this revenue offset is strongly supported by those who would pay the additional tax.

As I said previously, my strong preference would be to not use the tax code to pay for higher spending. However, there is strong support for the funeral trust provision and it is favorable to taxpayers.

Ms. CANTWELL. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

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

The bill (H.R. 6580) was ordered to be read a third time, was read the third time and passed.

DTV BORDER FIX ACT OF 2008

Ms. CANTWELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 886, S. 2507.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 2507) to address the digital television transition in border states.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''DTV Border Fix Act of 2008''.

SEC. 2. CONTINUATION OF ANALOG BROADCASTING ALONG COMMON BORDER WITH MEXICO.

Section 309(j)(14) of the Communications Act of 1934 (47 U.S.C. 309(j)(14)) is amended by adding at the end the following:

''(D) CONTINUATION OF ANALOG BROADCASTING ALONG COMMON BORDER WITH MEXICO.—

''(i) IN GENERAL.—Notwithstanding any other provision of this section, any television station that has been granted a full-power television broadcast license that authorizes analog television service prior to February 17, 2009, that is licensed by the Commission to serve communities located within 50 miles of the United States common border with Mexico, and that can establish to the satisfaction of the Commission that such station's continued broadcasting of television service in analog is in the public interest, shall during the period beginning on the date of enactment of the DTV Border Fix Act of 2008, and ending February 17, 2014—

''(I) be entitled to the renewal of such station's television broadcast license authorizing analog television service; and

''(II) operate such television service on a channel between 2 and 51.

''(ii) CONDITIONS.—The rights, privileges, and obligations described under clause (i) shall only be extended if the following requirements are satisfied:

''(I) Any channel used for the distribution of analog television service shall not—

''(aa) prevent the auction of recovered spectrum pursuant to paragraph (15);

''(bb) prevent the use of recovered spectrum for any public safety service pursuant to section 337(a)(1);

''(cc) encumber or interfere with any channel reserved for public safety use, as such channels are designated in ET Docket No. 97–157; and

''(dd) prevent the Commission from considering or granting a request for waiver submitted for public safety service prior to the date of enactment of the DTV Border Fix Act of 2008.

''(II) Each station described in clause (i) operates on its assigned analog channel, as of February 16, 2009, if such channel—

''(aa) is between 2 and 51;

''(bb) has not previously been assigned to such station or any another station for digital operation after the digital transition required under subparagraph (A); and

''(cc) could be used by such station for broadcasting analog television service after the digital transition required under subparagraph (A) without causing interference to any previously authorized digital television stations.

''(III) If such station does not meet the requirements under subclause (II) for operation on its assigned analog channel, as of February 16, 2009, such station may request, and the Commission shall promptly act upon such request, to be assigned a new channel for broadcasting analog television service, provided that such newly requested channel shall—

''(aa) be between channels 2 and 51; and

''(bb) allow such station to operate on a primary basis without causing interference to—

''(AA) any other analog or digital television station; or

''(BB) any station licensed to operate in any other radio service that also operates on channels between 2 and 51.

''(iii) MUTUALLY EXCLUSIVE APPLICATIONS.—If mutually exclusive applications are submitted for the right to use a channel in order to broadcast analog television service pursuant to this subparagraph, the Commission shall—

''(I) award the authority to use such channel for such purpose through the application of the procedures established under this section; and

''(II) give due consideration to any resolution procedures established by the Commission.''.

Ms. CANTWELL. I ask unanimous consent that the amendment at the desk be agreed to, the committee-reported substitute, as amended, be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements be printed in the RECORD.

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

The amendment (No. 5262) was agreed to, as follows:

On page 7, line 7, strike ''2014'' and insert ''2013''.

On page 10, line 18, strike the quotation mark and the second period and insert the following:

''(E) LIMITATION ON EXTENSION OF CERTAIN LICENSES.—The Commission shall not extend or renew a full-power television broadcast license that authorizes analog television service on or after February 17, 2013.''.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (S. 2507), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2507

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 ''DTV Border Fix Act of 2008''.

SEC. 2. CONTINUATION OF ANALOG BROADCASTING ALONG COMMON BORDER WITH MEXICO.

Section 309(j)(14) of the Communications Act of 1934 (47 U.S.C. 309(j)(14)) is amended by adding at the end the following:

''(D) CONTINUATION OF ANALOG BROADCASTING ALONG COMMON BORDER WITH MEXICO.—

''(i) IN GENERAL.—Notwithstanding any other provision of this section, any television station that has been granted a full-power television broadcast license that authorizes analog television service prior to February 17, 2009, that is licensed by the Commission to serve communities located within 50 miles of the United States common border with Mexico, and that can establish to the satisfaction of the Commission that such station's continued broadcasting of television service in analog is in the public interest, shall during the period beginning on the date of enactment of the DTV Border Fix Act of 2008, and ending February 17, 2013—

''(I) be entitled to the renewal of such station's television broadcast license authorizing analog television service; and

''(II) operate such television service on a channel between 2 and 51.

''(ii) CONDITIONS.—The rights, privileges, and obligations described under clause (i) shall only be extended if the following requirements are satisfied:

''(I) Any channel used for the distribution of analog television service shall not—

''(aa) prevent the auction of recovered spectrum pursuant to paragraph (15);

''(bb) prevent the use of recovered spectrum for any public safety service pursuant to section 337(a)(1);

''(cc) encumber or interfere with any channel reserved for public safety use, as such channels are designated in ET Docket No. 97–157; and

''(dd) prevent the Commission from considering or granting a request for waiver submitted for public safety service prior to the date of enactment of the DTV Border Fix Act of 2008.

''(II) Each station described in clause (i) operates on its assigned analog channel, as of February 16, 2009, if such channel—

''(aa) is between 2 and 51;

''(bb) has not previously been assigned to such station or any another station for digital operation after the digital transition required under subparagraph (A); and

''(cc) could be used by such station for broadcasting analog television service after the digital transition required under subparagraph (A) without causing interference to any previously authorized digital television stations.

''(III) If such station does not meet the requirements under subclause (II) for operation on its assigned analog channel, as of February 16, 2009, such station may request, and the Commission shall promptly act upon such request, to be assigned a new channel for broadcasting analog television service, provided that such newly requested channel shall—

''(aa) be between channels 2 and 51; and

''(bb) allow such station to operate on a primary basis without causing interference to—

''(AA) any other analog or digital television station; or

''(BB) any station licensed to operate in any other radio service that also operates on channels between 2 and 51.

''(iii) MUTUALLY EXCLUSIVE APPLICATIONS.—If mutually exclusive applications are submitted for the right to use a channel in order to broadcast analog television service pursuant to this subparagraph, the Commission shall—

''(I) award the authority to use such channel for such purpose through the application of the procedures established under this section; and

''(II) give due consideration to any resolution procedures established by the Commission.

''(E) LIMITATION ON EXTENSION OF CERTAIN LICENSES.—The commission shall not extend or renew a full-power television broadcast license that authorizes analog television service on or after February 17, 2013.''.

GREAT LAKES INTERSTATE COMPACT

Ms. CANTWELL. I ask unanimous consent the Judiciary Committee be discharged from further consideration of S.J. Res. 45 and the Senate proceed to its immediate consideration.

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

The clerk will report the joint resolution by title.

The assistant clerk read as follows:

A joint resolution (S.J. Res. 45) expressing the consent and approval of Congress to an interstate compact regarding water resources in the Great Lakes St. Lawrence River Basin.

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

Mr. KOHL. Mr. President, I wanted to talk to today about the Great Lakes-St. Lawrence River Basin Water Resources Compact. The compact enjoys broad bipartisan support, including all 8 Great Lakes States, Canadian provinces Ontario and Quebec, and 150 business and environmental groups.

The Great Lakes are one of America's national treasures and one of the natural wonders of the world. Holding 20 percent of the worlds freshwater, the Great Lakes play a vital role in the daily lives of the people of Wisconsin providing drinking water, jobs, energy, shipping, and recreation. Something that important to our prosperity needs to be conserved so that future generations can benefit.

The compact before us does just that. It is a binding agreement among the Great Lakes States to implement a conservation standard for regulating water withdrawals from the Great Lakes Basin. Specifically, the compact protects the Great Lakes by banning new or increased diversions outside of the Great Lakes basin. The compact also requires each State to implement water conservation measures, which will promote efficient water use and minimize waste.

Not too long ago we faced the specter of foreign companies exporting water out of the lakes—threatening our environment. This compact is a response to those threats, making it clear that the Lakes are not to be exploited. As a cosponsor of this resolution, I am pleased the Senate passed this important compact.

Mr. VOINOVICH. Mr. President, I rise to today in support of S.J. Res. 45, the Great Lakes—St. Lawrence River Basin Water Resources Compact. During the course of adoption of the Compact by the respective State legislatures, an issue arose concerning the intent and interpretation of section 4.11.2 of the Compact's Decision-Making Standard relating to the scale and scope of impacts that would be deemed sufficiently significant such to preclude approval of a withdrawal proposal. It is my understanding that the intent of the drafters of the Compact is expressed in a memorandum prepared by Dr. Sam Speck, Chair of the Council of Great Lakes Governors Annex 2001 Working Group, dated December 5, 2005, and I ask unanimous consent it be printed in the RECORD.

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

DECEMBER 5, 2005.

To: George Kuper, President and CEO, Council of Great Lakes Industries.

From: Sam Speck, Director, Ohio Department of Natural Resources, Chair, Great Lakes Governors' and Premiers' Water Management Working Group.

You and other stakeholder representatives have raised concerns regarding three specific sections of the November 10 drafts of the Great Lakes—St. Lawrence River Basin Water Resources Compact (Compact). On behalf of the Working Group, I would like to provide you with a description of our intent with respect to these sections. Please share this memo with other interested parties.

CONCERNS AND RESPONSES

Please note that all Section references below are to the November 10 drafts of the compact and ''your submission'' mean the joint submission from the Council of Great Lakes Industries and the National Wildlife Federation dated October 9, 2005. Each ''concern'' below is the text that you submitted to us and the ''response'' is on behalf of the Working Group.

1. CONCERN: The ''grandfathering'' of existing users.

The ''grandfathering'' issue has been known—and industry widely believes agreed to—since the beginning of the deliberations. But, there are major problems with current language:

(a.) The current baseline from which ''new'' or ''increased'' will be determined is unnecessarily unclear/imprecise and potentially constraining (Section 4.12.2 ii). An industrial capital investment made in any part of a facility's water withdrawal system must be permitted to operate at the capacity for which it was designed and built, no matter if other parts of the water treatment or distribution system may require enlargement. Above all, this section will generate wide dissatisfaction and a decided lack of support if it is not clarified.

(b.) There is no provision for challenging/correcting the list of existing withdrawers—and the grandfathered withdrawal quantities—that will be created by each Party which may omit users or cite incorrect quantities. Some will believe that if they are inadvertently left off such a list they will not be considered for an existing use at some point in the future.

Response

(a.) In your submission to the Working Group, you proposed that existing Withdrawals would be determined as follows:

''The existing Withdrawal will be determined by the [larger] of either the applicable Withdrawal limitation in any permit authorizing the Withdrawal; or, the physical capacity of the withdrawal system facility (which includes Withdrawal capacity, treatment capacity, and other capacity limiting factors) as of the effective date of the Compact.''

The Working Group's intent and effect of Section 4.12.2 of the Compact is consistent with your submission. Each State will have the flexibility of choosing either to use the permitted amount or capacity limiting factors for determining existing withdrawals.

We encourage interested stakeholders to work with the individual States to help them determine which approach to use when identifying existing water withdrawals.

(b.) The individual States will have the authority to create the process for developing and maintaining lists of existing water withdrawals. It is our understanding that States intend to use processes similar to those that have been used for other management and regulatory initiatives with opportunities for public participation, appeals and due process. All interested stakeholders are encouraged to work with the individual States as they develop these processes to ensure that the lists are accurate.

2. CONCERN: Change to a mandatory requirement not understood.

A very recent change to a decision-making standard (Section 4.11.2)—a substitution of ''and'' instead of ''of'' as the conjunctive in the last phrase—changes the entire meaning of the provision and sets up a situation where a significant impact on a few feet of a stream could be viewed as a bar to permitting. Hopefully this is just a ''typo.'' If not, this constitutes a considerable and unsupportable change in intent of the section.

Response

The Working Group's intent is consistent with your submission regarding the scope of evaluating ''no significant adverse impacts.'' To clarify, a ''Source Watershed'' is the watershed of a Great Lake or the St. Lawrence River. Therefore, requiring that there be no significant adverse impacts to a Source Watershed means that, for example, there be no significant adverse impacts to the Lake Michigan watershed.

In your submission to the Working Group, your proposed criterion included in your Section 4.9.2 read as follows:

''The Consumptive Use [or] Withdrawal . . . will be implemented so as to ensure that the Proposal. . . .will result in no significant individual or cumulative adverse impacts to the quantity or quality of the *Waters and Water Dependent Natural Resources of the applicable Source Watershed*.'' [Emphasis added.]

With this language and the corresponding definitions, your submission would require that there be no significant individual or cumulative adverse impacts at both the Basinwide and Source Watershed (e.g. Lake Michigan watershed) scale.

In the Compact, the definition of ''Water and Water Dependent Natural Resources'' (Section 1.2) reads as follows:

''Water Dependent Natural Resources means the interacting components of land, Water and living organisms affected by the *Waters of the Basin*.'' [Emphasis added.]

And the definition ''Waters of the Basin'' reads in the Compact as follows (Section 1.2):

''Waters of the Basin or Basin Water means the Great Lakes and *all* streams, rivers, lakes, connecting channels and other bodies of water, including tributary groundwater, within the Basin.'' [Emphasis added.]

Accordingly, when a reference is made to the ''Water Dependent Natural Resources,'' a reference is effectively made to all of the water of the Great Lakes Basin. Therefore, in Section 4.11.2 of the Compact, the use of the word ''and'' in place of ''of'' simply clarifies that, in addition to your explicit requirement that there be no significant adverse impacts to the Water Dependent Natural Resources of the Source Watershed, there be no significant adverse impacts to the Great Lakes—St. Lawrence River Basin as a whole.

In conclusion, the intent and effect of the language included by the Working Group is consistent with the intent and effect of the language provided in your submission.

3. CONCERN: Inappropriate unilateral Council authority.

As currently drafted, it appears that the Council can revise all the carefully crafted provisions of this Compact (Section 3.1, 2nd Para.) without any public or State legislative review. This threatens the stability of secure access which is so critical to industry. The odds are legislators would not appreciate this delegation of legislative authority either. At best there are significant differences of opinion as to how this section reads. At worse, the Council has reserved the right to change, by unanimous vote and without affirmative legislative action of the Parties, the Standard. We suspect it is a lack of clarity and can easily be remedied.

Response

This is an incorrect interpretation of the referenced paragraph. The second paragraph of Section 3.1 of the Compact does not allow the Compact Council to ''unilaterally'' revise the Standard of Review and Decision without any public or State legislative review. The second paragraph of Section 3.1 states that:

The Council may revise the Standard of Review and Decision, after consultation with the Provinces and upon *(1)* unanimous vote of all Council members, *(2)* by regulation duly adopted in accordance with Section 3.3 of this Compact and *(3)* in accordance with each Party's respective statutory authorities and applicable procedures. [Italicized numbers added]

Therefore, before any revision can be made to the Standard of Review and Decision, ALL of the following steps must take place:

(1) Unanimous vote of all Council members. The Council consists of all eight Great Lakes Governors (see Section 2.2). Therefore, all eight Governors must approve any proposed revision to the Standard of Review and Decision. Any single Governor may veto a proposed revision to the Standard of Review and Decision.

(2) Regulation duly adopted in accordance with Section 3.3 of this Compact. Section 3.3.1 states in part that: Any rule or regulation of the Council . . . shall be adopted *only after public notice and hearing*. [Emphasis added] A contention that changes can be made without public notice and hearing is incorrect.

(3) In accordance with each Party's respective statutory authorities and applicable procedures. Any proposed revision must be done in accordance with the appropriate statutes, rules and regulations in each and every State. Each State will have the opportunity to determine what the appropriate rules may be.

It is difficult to envision a case where there would be no public hearings or input in any of the States on a proposed revision to the Standard of Review and Decision. All of the States currently have in place procedures that must be followed before regulations can come into force. In some instances, these procedures include legislative review of the proposed regulations.

Therefore, an interpretation that there could be a ''unilateral'' revision to the Standard or Review and Decision is erroneous. Each State legislature has significant ability to decide under what circumstances the Standard of Review and Decision may be revised because of the requirement that the revision be adopted in accordance with each Party's respective statutory authorities and applicable procedures.

CONCLUSION

We appreciate your concerns and we hope that this clarification regarding the Working Group's intent is helpful. As always, if there are questions please do not hesitate to contact me or other Working Group members. We appreciate your continued partnership in our shared efforts to protect the Great Lakes—St. Lawrence River Basin.

Ms. CANTWELL. I ask unanimous consent that a Levin amendment be agreed to; the joint resolution, as amended, be read a third time and passed, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements be printed in the RECORD.

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

The amendment (No. 5263) was agreed to, as follows:

(Purpose: To clarify the authority of Congress)

On page 63, strike lines 4 through 11 and insert the following:

(1) Congress consents to and approves the interstate compact regarding water resources in the Great Lakes—St. Lawrence River Basin described in the preamble;

(2) until a Great Lakes Water Compact is ratified and enforceable, laws in effect as of the date of enactment of this resolution provide protection sufficient to prevent Great Lakes water diversions; and

(3) Congress expressly reserves the right to alter, amend, or repeal this resolution.

The joint resolution (S.J. Res. 45), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution (S.J. Res. 45), as amended, with its preamble, reads as follows:

S.J. RES. 45

Whereas the interstate compact regarding water resources in the Great Lakes—St. Lawrence River Basin reads as follows:

''AGREEMENT

''Section 1. The states of Illinois, Indiana, Michigan, Minnesota, New York, Ohio and Wisconsin and the Commonwealth of Pennsylvania hereby solemnly covenant and agree with each other, upon enactment of concurrent legislation by the respective state legislatures and consent by the Congress of the United States as follows:

''GREAT LAKES—ST. LAWRENCE RIVER BASIN WATER RESOURCES COMPACT

''ARTICLE 1

''SHORT TITLE, DEFINITIONS, PURPOSES AND DURATION

''Section 1.1. Short Title. This act shall be known and may be cited as the ''Great Lakes—St. Lawrence River Basin Water Resources Compact.''

''Section 1.2. Definitions. For the purposes of this Compact, and of any supplemental or concurring legislation enacted pursuant thereto, except as may be otherwise required by the context:

''Adaptive Management means a Water resources management system that provides a systematic process for evaluation, monitoring and learning from the outcomes of operational programs and adjustment of policies, plans and programs based on experience and the evolution of scientific knowledge concerning Water resources and Water Dependent Natural Resources.

''Agreement means the Great Lakes—St. Lawrence River Basin Sustainable Water Resources Agreement.

''Applicant means a Person who is required to submit a Proposal that is subject to management and regulation under this Compact. **Application** has a corresponding meaning.

''Basin or **Great Lakes—St. Lawrence River Basin** means the watershed of the Great Lakes and the St. Lawrence River upstream from Trois-Rivières, Québec within the jurisdiction of the Parties.

''Basin Ecosystem or **Great Lakes—St. Lawrence River Basin Ecosystem** means the interacting components of air, land, Water and living organisms, including humankind, within the Basin.

''Community within a Straddling County means any incorporated city, town or the equivalent thereof, that is located outside the Basin but wholly within a County that lies partly within the Basin and that is not a Straddling Community.

''Compact means this Compact.

''Consumptive Use means that portion of the Water Withdrawn or withheld from the Basin that is lost or otherwise not returned to the Basin due to evaporation, incorporation into Products, or other processes.

''Council means the Great Lakes—St. Lawrence River Basin Water Resources Council, created by this Compact.

''Council Review means the collective review by the Council members as described in Article 4 of this Compact.

''County means the largest territorial division for local government in a State. The County boundaries shall be defined as those boundaries that exist as of December 13, 2005.

''Cumulative Impacts mean the impact on the Basin Ecosystem that results from incremental effects of all aspects of a Withdrawal, Diversion or Consumptive Use in addition to other past, present, and reasonably foreseeable future Withdrawals, Diversions and Consumptive Uses regardless of who undertakes the other Withdrawals, Diversions and Consumptive Uses. Cumulative Impacts can result from individually minor but collectively significant Withdrawals, Diversions and Consumptive Uses taking place over a period of time.

''Decision-Making Standard means the decision-making standard established by Section 4.11 for Proposals subject to management and regulation in Section 4.10.

''Diversion means a transfer of Water from the Basin into another watershed, or from the watershed of one of the Great Lakes into that of another by any means of transfer, including but not limited to a pipeline, canal, tunnel, aqueduct, channel, modification of the direction of a water course, a tanker ship, tanker truck or rail tanker but does not apply to Water that is used in the Basin or a Great Lake watershed to manufacture or produce a Product that is then transferred out of the Basin or watershed. **Divert** has a corresponding meaning.

''Environmentally Sound and Economically Feasible Water Conservation Measures mean those measures, methods, technologies or practices for efficient water use and for reduction of water loss and waste or for reducing a Withdrawal, Consumptive Use or Diversion that i) are environmentally sound, ii)

reflect best practices applicable to the water use sector, iii) are technically feasible and available, iv) are economically feasible and cost effective based on an analysis that considers direct and avoided economic and environmental costs and v) consider the particular facilities and processes involved, taking into account the environmental impact, age of equipment and facilities involved, the processes employed, energy impacts and other appropriate factors.

"Exception means a transfer of Water that is excepted under Section 4.9 from the prohibition against Diversions in Section 4.8.

"Exception Standard means the standard for Exceptions established in Section 4.9.4.

"Intra-Basin Transfer means the transfer of Water from the watershed of one of the Great Lakes into the watershed of another Great Lake.

"Measures means any legislation, law, regulation, directive, requirement, guideline, program, policy, administrative practice or other procedure.

"New or Increased Diversion means a new Diversion, an increase in an existing Diversion, or the alteration of an existing Withdrawal so that it becomes a Diversion.

"New or Increased Withdrawal or Consumptive Use means a new Withdrawal or Consumptive Use or an increase in an existing Withdrawal or Consumptive Use.

"Originating Party means the Party within whose jurisdiction an Application or registration is made or required.

"Party means a State party to this Compact.

"Person means a human being or a legal person, including a government or a nongovernmental organization, including any scientific, professional, business, non-profit, or public interest organization or association that is neither affiliated with, nor under the direction of a government.

"Product means something produced in the Basin by human or mechanical effort or through agricultural processes and used in manufacturing, commercial or other processes or intended for intermediate or end use consumers. (i) Water used as part of the packaging of a Product shall be considered to be part of the Product. (ii) Other than Water used as part of the packaging of a Product, Water that is used primarily to transport materials in or out of the Basin is not a Product or part of a Product. (iii) Except as provided in (i) above, Water which is transferred as part of a public or private supply is not a Product or part of a Product. (iv) Water in its natural state such as in lakes, rivers, reservoirs, aquifers, or water basins is not a Product.

"Proposal means a Withdrawal, Diversion or Consumptive Use of Water that is subject to this Compact.

"Province means Ontario or Québec.

"Public Water Supply Purposes means water distributed to the public through a physically connected system of treatment, storage and distribution facilities serving a group of largely residential customers that may also serve industrial, commercial, and other institutional operators. Water Withdrawn directly from the Basin and not through such a system shall not be considered to be used for Public Water Supply Purposes.

"Regional Body means the members of the Council and the Premiers of Ontario and Québec or their designee as established by the Agreement.

"Regional Review means the collective review by the Regional Body as described in Article 4 of this Compact.

"Source Watershed means the watershed from which a Withdrawal originates. If Water is Withdrawn directly from a Great Lake or from the St. Lawrence River, then the Source Watershed shall be considered to be the watershed of that Great Lake or the watershed of the St. Lawrence River, respectively. If Water is Withdrawn from the watershed of a stream that is a direct tributary to a Great Lake or a direct tributary to the St. Lawrence River, then the Source Watershed shall be considered to be the watershed of that Great Lake or the watershed of the St. Lawrence River, respectively, with a preference to the direct tributary stream watershed from which it was Withdrawn.

"Standard of Review and Decision means the Exception Standard, Decision-Making Standard and reviews as outlined in Article 4 of this Compact.

"State means one of the states of Illinois, Indiana, Michigan, Minnesota, New York, Ohio or Wisconsin or the Commonwealth of Pennsylvania.

"Straddling Community means any incorporated city, town or the equivalent thereof, wholly within any County that lies partly or completely within the Basin, whose corporate boundary existing as of the effective date of this Compact, is partly within the Basin or partly within two Great Lakes watersheds.

"Technical Review means a detailed review conducted to determine whether or not a Proposal that requires Regional Review under this Compact meets the Standard of Review and Decision following procedures and guidelines as set out in this Compact.

"Water means ground or surface water contained within the Basin.

"Water Dependent Natural Resources means the interacting components of land, Water and living organisms affected by the Waters of the Basin.

"Waters of the Basin or Basin Water means the Great Lakes and all streams, rivers, lakes, connecting channels and other bodies of water, including tributary groundwater, within the Basin.

"Withdrawal means the taking of water from surface water or groundwater. **Withdraw** has a corresponding meaning.

"Section 1.3. Findings and Purposes.

''The legislative bodies of the respective Parties hereby find and declare:

''1. Findings:

''a. The Waters of the Basin are precious public natural resources shared and held in trust by the States;

''b. The Waters of the Basin are interconnected and part of a single hydrologic system;

''c. The Waters of the Basin can concurrently serve multiple uses. Such multiple uses include municipal, public, industrial, commercial, agriculture, mining, navigation, energy development and production, recreation, the subsistence, economic and cultural activities of native peoples, Water quality maintenance, and the maintenance of fish and wildlife habitat and a balanced ecosystem. And, other purposes are encouraged, recognizing that such uses are interdependent and must be balanced;

''d. Future Diversions and Consumptive Uses of Basin Water resources have the potential to significantly impact the environment, economy and welfare of the Great Lakes—St. Lawrence River region;

''e. Continued sustainable, accessible and adequate Water supplies for the people and economy of the Basin are of vital importance; and,

''f. The Parties have a shared duty to protect, conserve, restore, improve and manage the renewable but finite Waters of the Basin for the use, benefit and enjoyment of all their citizens, including generations yet to come. The most effective means of protecting, conserving, restoring, improving and managing the Basin Waters is through the joint pursuit of unified and cooperative principles, policies and programs mutually-agreed upon, enacted and adhered to by all Parties.

''2. Purposes:

''a. To act together to protect, conserve, restore, improve and effectively manage the Waters and Water Dependent Natural Resources of the Basin under appropriate arrangements for intergovernmental cooperation and consultation because current lack of full scientific certainty should not be used as a reason for postponing measures to protect the Basin Ecosystem;

''b. To remove causes of present and future controversies;

''c. To provide for cooperative planning and action by the Parties with respect to such Water resources;

''d. To facilitate consistent approaches to Water management across the Basin while retaining State management authority over Water management decisions within the Basin;

''e. To facilitate the exchange of data, strengthen the scientific information base upon which decisions are made and engage in consultation on the potential effects of proposed Withdrawals and losses on the Waters and Water Dependent Natural Resources of the Basin;

''f. To prevent significant adverse impacts of Withdrawals and losses on the Basin's ecosystems and watersheds;

''g. To promote interstate and State-Provincial comity; and,

''h. To promote an Adaptive Management approach to the conservation and management of Basin Water resources, which recognizes, considers and provides adjustments for the uncertainties in, and evolution of, scientific knowledge concerning the Basin's Waters and Water Dependent Natural Resources.

"Section 1.4. Science.

''1. The Parties commit to provide leadership for the development of a collaborative strategy with other regional partners to strengthen the scientific basis for sound Water management decision making under this Compact.

''2. The strategy shall guide the collection and application of scientific information to support:

''a. An improved understanding of the individual and Cumulative Impacts of Withdrawals from various locations and Water sources on the Basin Ecosystem and to develop a mechanism by which impacts of Withdrawals may be assessed;

''b. The periodic assessment of Cumulative Impacts of Withdrawals, Diversions and Consumptive Uses on a Great Lake and St. Lawrence River watershed basis;

''c. Improved scientific understanding of the Waters of the Basin;

''d. Improved understanding of the role of groundwater in Basin Water resources management; and,

''e. The development, transfer and application of science and research related to Water conservation and Water use efficiency.

"ARTICLE 2

"ORGANIZATION

"Section 2.1. Council Created.

''The Great Lakes—St. Lawrence River Basin Water Resources Council is hereby created as a body politic and corporate, with succession for the duration of this Compact, as an agency and instrumentality of the governments of the respective Parties.

"Section 2.2. Council Membership.

''The Council shall consist of the Governors of the Parties, ex officio.

"Section 2.3. Alternates.

''Each member of the Council shall appoint at least one alternate who may act in his or her place and stead, with authority to attend

all meetings of the Council and with power to vote in the absence of the member. Unless otherwise provided by law of the Party for which he or she is appointed, each alternate shall serve during the term of the member appointing him or her, subject to removal at the pleasure of the member. In the event of a vacancy in the office of alternate, it shall be filled in the same manner as an original appointment for the unexpired term only.

"Section 2.4. Voting.

''1. Each member is entitled to one vote on all matters that may come before the Council.

''2. Unless otherwise stated, the rule of decision shall be by a simple majority.

''3. The Council shall annually adopt a budget for each fiscal year and the amount required to balance the budget shall be apportioned equitably among the Parties by unanimous vote of the Council. The appropriation of such amounts shall be subject to such review and approval as may be required by the budgetary processes of the respective Parties.

''4. The participation of Council members from a majority of the Parties shall constitute a quorum for the transaction of business at any meeting of the Council.

"Section 2.5. Organization and Procedure.

''The Council shall provide for its own organization and procedure, and may adopt rules and regulations governing its meetings and transactions, as well as the procedures and timeline for submission, review and consideration of Proposals that come before the Council for its review and action. The Council shall organize, annually, by the election of a Chair and Vice Chair from among its members. Each member may appoint an advisor, who may attend all meetings of the Council and its committees, but shall not have voting power. The Council may employ or appoint professional and administrative personnel, including an Executive Director, as it may deem advisable, to carry out the purposes of this Compact.

"Section 2.6. Use of Existing Offices and Agencies.

''It is the policy of the Parties to preserve and utilize the functions, powers and duties of existing offices and agencies of government to the extent consistent with this Compact. Further, the Council shall promote and aid the coordination of the activities and programs of the Parties concerned with Water resources management in the Basin. To this end, but without limitation, the Council may:

''1. Advise, consult, contract, assist or otherwise cooperate with any and all such agencies;

''2. Employ any other agency or instrumentality of any of the Parties for any purpose; and,

''3. Develop and adopt plans consistent with the Water resources plans of the Parties.

"Section 2.7. Jurisdiction.

''The Council shall have, exercise and discharge its functions, powers and duties within the limits of the Basin. Outside the Basin, it may act in its discretion, but only to the extent such action may be necessary or convenient to effectuate or implement its powers or responsibilities within the Basin and subject to the consent of the jurisdiction wherein it proposes to act.

"Section 2.8. Status, Immunities and Privileges.

''1. The Council, its members and personnel in their official capacity and when engaged directly in the affairs of the Council, its property and its assets, wherever located and by whomsoever held, shall enjoy the same immunity from suit and every form of judicial process as is enjoyed by the Parties, except to the extent that the Council may expressly waive its immunity for the purposes of any proceedings or by the terms of any contract.

''2. The property and assets of the Council, wherever located and by whomsoever held, shall be considered public property and shall be immune from search, requisition, confiscation, expropriation or any other form of taking or foreclosure by executive or legislative action.

''3. The Council, its property and its assets, income and the operations it carries out pursuant to this Compact shall be immune from all taxation by or under the authority of any of the Parties or any political subdivision thereof; provided, however, that in lieu of property taxes the Council may make reasonable payments to local taxing districts in annual amounts which shall approximate the taxes lawfully assessed upon similar property.

"Section 2.9. Advisory Committees.

''The Council may constitute and empower advisory committees, which may be comprised of representatives of the public and of federal, State, tribal, county and local governments, water resources agencies, water-using industries and sectors, water-interest groups and academic experts in related fields.

"ARTICLE 3

"GENERAL POWERS AND DUTIES

"Section 3.1. General.

''The Waters and Water Dependent Natural Resources of the Basin are subject to the sovereign right and responsibilities of the Parties, and it is the purpose of this Compact to provide for joint exercise of such powers of sovereignty by the Council in the common interests of the people of the region, in the manner and to the extent provided in this Compact. The Council and the Parties shall use the Standard of Review and Decision and procedures contained in or adopted pursuant to this Compact as the means to exercise their authority under this Compact.

The Council may revise the Standard of Review and Decision, after consultation with the Provinces and upon unanimous vote of all Council members, by regulation duly adopted in accordance with Section 3.3 of this Compact and in accordance with each Party's respective statutory authorities and applicable procedures.

The Council shall identify priorities and develop plans and policies relating to Basin Water resources. It shall adopt and promote uniform and coordinated policies for Water resources conservation and management in the Basin.

"Section 3.2. Council Powers.

''The Council may: plan; conduct research and collect, compile, analyze, interpret, report and disseminate data on Water resources and uses; forecast Water levels; conduct investigations; institute court actions; design, acquire, construct, reconstruct, own, operate, maintain, control, sell and convey real and personal property and any interest therein as it may deem necessary, useful or convenient to carry out the purposes of this Compact; make contracts; receive and accept such payments, appropriations, grants, gifts, loans, advances and other funds, properties and services as may be transferred or made available to it by any Party or by any other public or private agency, corporation or individual; and, exercise such other and different powers as may be delegated to it by this Compact or otherwise pursuant to law, and have and exercise all powers necessary or convenient to carry out its express powers or which may be reasonably implied therefrom.

"Section 3.3. Rules and Regulations.

''1. The Council may promulgate and enforce such rules and regulations as may be necessary for the implementation and enforcement of this Compact. The Council may adopt by regulation, after public notice and public hearing, reasonable Application fees with respect to those Proposals for Exceptions that are subject to Council review under Section 4.9. Any rule or regulation of the Council, other than one which deals solely with the internal management of the Council or its property, shall be adopted only after public notice and hearing.

''2. Each Party, in accordance with its respective statutory authorities and applicable procedures, may adopt and enforce rules and regulations to implement and enforce this Compact and the programs adopted by such Party to carry out the management programs contemplated by this Compact.

"Section 3.4. Program Review and Findings.

''1. Each Party shall submit a report to the Council and the Regional Body detailing its Water management and conservation and efficiency programs that implement this Compact. The report shall set out the manner in which Water Withdrawals are managed by sector, Water source, quantity or any other means, and how the provisions of the Standard of Review and Decision and conservation and efficiency programs are implemented. The first report shall be provided by each Party one year from the effective date of this Compact and thereafter every 5 years.

''2. The Council, in cooperation with the Provinces, shall review its Water management and conservation and efficiency programs and those of the Parties that are established in this Compact and make findings on whether the Water management program provisions in this Compact are being met, and if not, recommend options to assist the Parties in meeting the provisions of this Compact. Such review shall take place:

''a. 30 days after the first report is submitted by all Parties; and,

''b. Every five years after the effective date of this Compact; and,

''c. At any other time at the request of one of the Parties.

''3. As one of its duties and responsibilities, the Council may recommend a range of approaches to the Parties with respect to the development, enhancement and application of Water management and conservation and efficiency programs to implement the Standard of Review and Decision reflecting improved scientific understanding of the Waters of the Basin, including groundwater, and the impacts of Withdrawals on the Basin Ecosystem.

"ARTICLE 4

"WATER MANAGEMENT AND REGULATION

"Section 4.1. Water Resources Inventory, Registration and Reporting.

''1. Within five years of the effective date of this Compact, each Party shall develop and maintain a Water resources inventory for the collection, interpretation, storage, retrieval exchange, and dissemination of information concerning the Water resources of the Party, including, but not limited to, information on the location, type, quantity, and use of those resources and the location, type, and quantity of Withdrawals, Diversions and Consumptive Uses. To the extent feasible, the Water resources inventory shall be developed in cooperation with local, State, federal, tribal and other private agencies and entities, as well as the Council. Each Party's agencies shall cooperate with that Party in the development and maintenance of the inventory.

''2. The Council shall assist each Party to develop a common base of data regarding the management of the Water Resources of the Basin and to establish systematic arrangements for the exchange of those data with other States and Provinces.

''3. To develop and maintain a compatible base of Water use information, within five years of the effective date of this Compact any Person who Withdraws Water in an amount of 100,000 gallons per day or greater average in any 30-day period (including Consumptive Uses) from all sources, or Diverts Water of any amount, shall register the Withdrawal or Diversion by a date set by the Council unless the Person has previously registered in accordance with an existing State program. The Person shall register the Withdrawal or Diversion with the Originating Party using a form prescribed by the Originating Party that shall include, at a minimum and without limitation: the name and address of the registrant and date of registration; the locations and sources of the Withdrawal or Diversion; the capacity of the Withdrawal or Diversion per day and the amount Withdrawn or Diverted from each source; the uses made of the Water; places of use and places of discharge; and, such other information as the Originating Party may require. All registrations shall include an estimate of the volume of the Withdrawal or Diversion in terms of gallons per day average in any 30-day period.

''4. All registrants shall annually report the monthly volumes of the Withdrawal, Consumptive Use and Diversion in gallons to the Originating Party and any other information requested by the Originating Party.

''5. Each Party shall annually report the information gathered pursuant to this Section to a Great Lakes—St. Lawrence River Water use data base repository and aggregated information shall be made publicly available, consistent with the confidentiality requirements in Section 8.3.

''6. Information gathered by the Parties pursuant to this Section shall be used to improve the sources and applications of scientific information regarding the Waters of the Basin and the impacts of the Withdrawals and Diversions from various locations and Water sources on the Basin Ecosystem, and to better understand the role of groundwater in the Basin. The Council and the Parties shall coordinate the collection and application of scientific information to further develop a mechanism by which individual and Cumulative Impacts of Withdrawals, Consumptive Uses and Diversions shall be assessed.

''Section 4.2. Water Conservation and Efficiency Programs.

''1. The Council commits to identify, in cooperation with the Provinces, Basin-wide Water conservation and efficiency objectives to assist the Parties in developing their Water conservation and efficiency program. These objectives are based on the goals of:

''a. Ensuring improvement of the Waters and Water Dependent Natural Resources;

''b. Protecting and restoring the hydrologic and ecosystem integrity of the Basin;

''c. Retaining the quantity of surface water and groundwater in the Basin;

''d. Ensuring sustainable use of Waters of the Basin; and,

''e. Promoting the efficiency of use and reducing losses and waste of Water.

''2. Within two years of the effective date of this Compact, each Party shall develop its own Water conservation and efficiency goals and objectives consistent with the Basin-wide goals and objectives, and shall develop and implement a Water conservation and efficiency program, either voluntary or mandatory, within its jurisdiction based on the Party's goals and objectives. Each Party shall annually assess its programs in meeting the Party's goals and objectives, report to the Council and the Regional Body and make this annual assessment available to the public.

''3. Beginning five years after the effective date of this Compact, and every five years thereafter, the Council, in cooperation with the Provinces, shall review and modify as appropriate the Basin-wide objectives, and the Parties shall have regard for any such modifications in implementing their programs. This assessment will be based on examining new technologies, new patterns of Water use, new resource demands and threats, and Cumulative Impact assessment under Section 4.15.

''4. Within two years of the effective date of this Compact, the Parties commit to promote Environmentally Sound and Economically Feasible Water Conservation Measures such as:

''a. Measures that promote efficient use of Water;

''b. Identification and sharing of best management practices and state of the art conservation and efficiency technologies;

''c. Application of sound planning principles;

''d. Demand-side and supply-side Measures or incentives; and,

''e. Development, transfer and application of science and research.

''5. Each Party shall implement in accordance with paragraph 2 above a voluntary or mandatory Water conservation program for all, including existing, Basin Water users. Conservation programs need to adjust to new demands and the potential impacts of cumulative effects and climate.

''Section 4.3. Party Powers and Duties.

''1. Each Party, within its jurisdiction, shall manage and regulate New or Increased Withdrawals, Consumptive Uses and Diversions, including Exceptions, in accordance with this Compact.

''2. Each Party shall require an Applicant to submit an Application in such manner and with such accompanying information as the Party shall prescribe.

''3. No Party may approve a Proposal if the Party determines that the Proposal is inconsistent with this Compact or the Standard of Review and Decision or any implementing rules or regulations promulgated thereunder. The Party may approve, approve with modifications or disapprove any Proposal depending on the Proposal's consistency with this Compact and the Standard of Review and Decision.

''4. Each Party shall monitor the implementation of any approved Proposal to ensure consistency with the approval and may take all necessary enforcement actions.

''5. No Party shall approve a Proposal subject to Council or Regional Review, or both, pursuant to this Compact unless it shall have been first submitted to and reviewed by either the Council or Regional Body, or both, and approved by the Council, as applicable. Sufficient opportunity shall be provided for comment on the Proposal's consistency with this Compact and the Standard of Review and Decision. All such comments shall become part of the Party's formal record of decision, and the Party shall take into consideration any such comments received.

''Section 4.4. Requirement for Originating Party Approval.

''No Proposal subject to management and regulation under this Compact shall hereafter be undertaken by any Person unless it shall have been approved by the Originating Party.

''Section 4.5. Regional Review.

''1. General.

''a. It is the intention of the Parties to participate in Regional Review of Proposals with the Provinces, as described in this Compact and the Agreement.

''b. Unless the Applicant or the Originating Party otherwise requests, it shall be the goal of the Regional Body to conclude its review no later than 90 days after notice under Section 4.5.2 of such Proposal is received from the Originating Party.

''c. Proposals for Exceptions subject to Regional Review shall be submitted by the Originating Party to the Regional Body for Regional Review, and where applicable, to the Council for concurrent review.

''d. The Parties agree that the protection of the integrity of the Great Lakes—St. Lawrence River Basin Ecosystem shall be the overarching principle for reviewing Proposals subject to Regional Review, recognizing uncertainties with respect to demands that may be placed on Basin Water, including groundwater, levels and flows of the Great Lakes and the St. Lawrence River, future changes in environmental conditions, the reliability of existing data and the extent to which Diversions may harm the integrity of the Basin Ecosystem.

''e. The Originating Party shall have lead responsibility for coordinating information for resolution of issues related to evaluation of a Proposal, and shall consult with the Applicant throughout the Regional Review Process.

''f. A majority of the members of the Regional Body may request Regional Review of a regionally significant or potentially precedent setting Proposal. Such Regional Review must be conducted, to the extent possible, within the time frames set forth in this Section. Any such Regional Review shall be undertaken only after consulting the Applicant.

''2. Notice from Originating Party to the Regional Body.

''a. The Originating Party shall determine if a Proposal is subject to Regional Review. If so, the Originating Party shall provide timely notice to the Regional Body and the public.

''b. Such notice shall not be given unless and until all information, documents and the Originating Party's Technical Review needed to evaluate whether the Proposal meets the Standard of Review and Decision have been provided.

''c. An Originating Party may:

''i. Provide notice to the Regional Body of an Application, even if notification is not required; or,

''ii. Request Regional Review of an application, even if Regional Review is not required. Any such Regional Review shall be undertaken only after consulting the Applicant.

''d. An Originating Party may provide preliminary notice of a potential Proposal.

''3. Public Participation.

''a. To ensure adequate public participation, the Regional Body shall adopt procedures for the review of Proposals that are subject to Regional Review in accordance with this Article.

''b. The Regional Body shall provide notice to the public of a Proposal undergoing Regional Review. Such notice shall indicate that the public has an opportunity to comment in writing to the Regional Body on whether the Proposal meets the Standard of Review and Decision.

''c. The Regional Body shall hold a public meeting in the State or Province of the Originating Party in order to receive public comment on the issue of whether the Proposal under consideration meets the Standard of Review and Decision.

''d. The Regional Body shall consider the comments received before issuing a Declaration of Finding.

''e. The Regional Body shall forward the comments it receives to the Originating Party.

''4. Technical Review.

''a. The Originating Party shall provide the Regional Body with its Technical Review of the Proposal under consideration.

''b. The Originating Party's Technical Review shall thoroughly analyze the Proposal and provide an evaluation of the Proposal

sufficient for a determination of whether the Proposal meets the Standard of Review and Decision.

''c. Any member of the Regional Body may conduct their own Technical Review of any Proposal subject to Regional Review.

''d. At the request of the majority of its members, the Regional Body shall make such arrangements as it considers appropriate for an independent Technical Review of a Proposal.

''e. All Parties shall exercise their best efforts to ensure that a Technical Review undertaken under Sections 4.5.4.c and 4.5.4.d does not unnecessarily delay the decision by the Originating Party on the Application. Unless the Applicant or the Originating Party otherwise requests, all Technical Reviews shall be completed no later than 60 days after the date the notice of the Proposal was given to the Regional Body.

''5. Declaration of Finding.

''a. The Regional Body shall meet to consider a Proposal. The Applicant shall be provided with an opportunity to present the Proposal to the Regional Body at such time.

''b. The Regional Body, having considered the notice, the Originating Party's Technical Review, any other independent Technical Review that is made, any comments or objections including the analysis of comments made by the public, First Nations and federally recognized Tribes, and any other information that is provided under this Compact shall issue a Declaration of Finding that the Proposal under consideration:

''i. Meets the Standard of Review and Decision;

''ii. Does not meet the Standard of Review and Decision; or,

''iii. Would meet the Standard of Review and Decision if certain conditions were met.

''c. An Originating Party may decline to participate in a Declaration of Finding made by the Regional Body.

''d. The Parties recognize and affirm that it is preferable for all members of the Regional Body to agree whether the Proposal meets the Standard of Review and Decision.

''e. If the members of the Regional Body who participate in the Declaration of Finding all agree, they shall issue a written Declaration of Finding with consensus.

''f. In the event that the members cannot agree, the Regional Body shall make every reasonable effort to achieve consensus within 25 days.

''g. Should consensus not be achieved, the Regional Body may issue a Declaration of Finding that presents different points of view and indicates each Party's conclusions.

''h. The Regional Body shall release the Declarations of Finding to the public.

''i. The Originating Party and the Council shall consider the Declaration of Finding before making a decision on the Proposal.

''Section 4.6. Proposals Subject to Prior Notice.

''1. Beginning no later than five years of the effective date of this Compact, the Originating Party shall provide all Parties and the Provinces with detailed and timely notice and an opportunity to comment within 90 days on any Proposal for a New or Increased Consumptive Use of 5 million gallons per day or greater average in any 90-day period. Comments shall address whether or not the Proposal is consistent with the Standard of Review and Decision. The Originating Party shall provide a response to any such comment received from another Party.

''2. A Party may provide notice, an opportunity to comment and a response to comments even if this is not required under paragraph 1 of this Section. Any provision of such notice and opportunity to comment shall be undertaken only after consulting the Applicant.

''Section 4.7. Council Actions.

''1. Proposals for Exceptions subject to Council Review shall be submitted by the Originating Party to the Council for Council Review, and where applicable, to the Regional Body for concurrent review.

''2. The Council shall review and take action on Proposals in accordance with this Compact and the Standard of Review and Decision. The Council shall not take action on a Proposal subject to Regional Review pursuant to this Compact unless the Proposal shall have been first submitted to and reviewed by the Regional Body. The Council shall consider any findings resulting from such review.

''Section 4.8. Prohibition of New or Increased Diversions.

''All New or Increased Diversions are prohibited, except as provided for in this Article.

''Section 4.9. Exceptions to the Prohibition of Diversions.

''1. Straddling Communities. A Proposal to transfer Water to an area within a Straddling Community but outside the Basin or outside the source Great Lake Watershed shall be excepted from the prohibition against Diversions and be managed and regulated by the Originating Party provided that, regardless of the volume of Water transferred, all the Water so transferred shall be used solely for Public Water Supply Purposes within the Straddling Community, and:

''a. All Water Withdrawn from the Basin shall be returned, either naturally or after use, to the Source Watershed less an allowance for Consumptive Use. No surface water or groundwater from outside the Basin may be used to satisfy any portion of this criterion except if it:

''i. Is part of a water supply or wastewater treatment system that combines water from inside and outside of the Basin;

''ii. Is treated to meet applicable water quality discharge standards and to prevent the introduction of invasive species into the Basin;

''iii. Maximizes the portion of water returned to the Source Watershed as Basin Water and minimizes the surface water or groundwater from outside the Basin;

''b. If the Proposal results from a New or Increased Withdrawal of 100,000 gallons per day or greater average over any 90-day period, the Proposal shall also meet the Exception Standard; and,

''c. If the Proposal results in a New or Increased Consumptive Use of 5 million gallons per day or greater average over any 90-day period, the Proposal shall also undergo Regional Review.

''2. Intra-Basin Transfer. A Proposal for an Intra-Basin Transfer that would be considered a Diversion under this Compact, and not already excepted pursuant to paragraph 1 of this Section, shall be excepted from the prohibition against Diversions, provided that:

''a. If the Proposal results from a New or Increased Withdrawal less than 100,000 gallons per day average over any 90-day period, the Proposal shall be subject to management and regulation at the discretion of the Originating Party.

''b. If the Proposal results from a New or Increased Withdrawal of 100,000 gallons per day or greater average over any 90-day period and if the Consumptive Use resulting from the Withdrawal is less than 5 million gallons per day average over any 90-day period:

''i. The Proposal shall meet the Exception Standard and be subject to management and regulation by the Originating Party, except that the Water may be returned to another Great Lake watershed rather than the Source Watershed;

''ii. The Applicant shall demonstrate that there is no feasible, cost effective, and environmentally sound water supply alternative within the Great Lake watershed to which the Water will be transferred, including conservation of existing water supplies; and,

''iii. The Originating Party shall provide notice to the other Parties prior to making any decision with respect to the Proposal.

''c. If the Proposal results in a New or Increased Consumptive Use of 5 million gallons per day or greater average over any 90-day period:

''i. The Proposal shall be subject to management and regulation by the Originating Party and shall meet the Exception Standard, ensuring that Water Withdrawn shall be returned to the Source Watershed;

''ii. The Applicant shall demonstrate that there is no feasible, cost effective, and environmentally sound water supply alternative within the Great Lake watershed to which the Water will be transferred, including conservation of existing water supplies;

''iii. The Proposal undergoes Regional Review; and,

''iv. The Proposal is approved by the Council. Council approval shall be given unless one or more Council Members vote to disapprove.

''3. Straddling Counties. A Proposal to transfer Water to a Community within a Straddling County that would be considered a Diversion under this Compact shall be excepted from the prohibition against Diversions, provided that it satisfies all of the following conditions:

''a. The Water shall be used solely for the Public Water Supply Purposes of the Community within a Straddling County that is without adequate supplies of potable water;

''b. The Proposal meets the Exception Standard, maximizing the portion of water returned to the Source Watershed as Basin Water and minimizing the surface water or groundwater from outside the Basin;

''c. The Proposal shall be subject to management and regulation by the Originating Party, regardless of its size;

''d. There is no reasonable water supply alternative within the basin in which the community is located, including conservation of existing water supplies;

''e. Caution shall be used in determining whether or not the Proposal meets the conditions for this Exception. This Exception should not be authorized unless it can be shown that it will not endanger the integrity of the Basin Ecosystem;

''f. The Proposal undergoes Regional Review; and,

''g. The Proposal is approved by the Council. Council approval shall be given unless one or more Council Members vote to disapprove.

A Proposal must satisfy all of the conditions listed above. Further, substantive consideration will also be given to whether or not the Proposal can provide sufficient scientifically based evidence that the existing water supply is derived from groundwater that is hydrologically interconnected to Waters of the Basin.

''4. Exception Standard. Proposals subject to management and regulation in this Section shall be declared to meet this Exception Standard and may be approved as appropriate only when the following criteria are met:

''a. The need for all or part of the proposed Exception cannot be reasonably avoided through the efficient use and conservation of existing water supplies;

''b. The Exception will be limited to quantities that are considered reasonable for the purposes for which it is proposed;

''c. All Water Withdrawn shall be returned, either naturally or after use, to the Source

Watershed less an allowance for Consumptive Use. No surface water or groundwater from the outside the Basin may be used to satisfy any portion of this criterion except if it:

''i. Is part of a water supply or wastewater treatment system that combines water from inside and outside of the Basin;

''ii. Is treated to meet applicable water quality discharge standards and to prevent the introduction of invasive species into the Basin;

''d. The Exception will be implemented so as to ensure that it will result in no significant individual or cumulative adverse impacts to the quantity or quality of the Waters and Water Dependent Natural Resources of the Basin with consideration given to the potential Cumulative Impacts of any precedent-setting consequences associated with the Proposal;

''e. The Exception will be implemented so as to incorporate Environmentally Sound and Economically Feasible Water Conservation Measures to minimize Water Withdrawals or Consumptive Use;

''f. The Exception will be implemented so as to ensure that it is in compliance with all applicable municipal, State and federal laws as well as regional interstate and international agreements, including the Boundary Waters Treaty of 1909; and,

''g. All other applicable criteria in Section 4.9 have also been met.

''Section 4.10. Management and Regulation of New or Increased Withdrawals and Consumptive Uses.

''1. Within five years of the effective date of this Compact, each Party shall create a program for the management and regulation of New or Increased Withdrawals and Consumptive Uses by adopting and implementing Measures consistent with the Decision-Making Standard. Each Party, through a considered process, shall set and may modify threshold levels for the regulation of New or Increased Withdrawals in order to assure an effective and efficient Water management program that will ensure that uses overall are reasonable, that Withdrawals overall will not result in significant impacts to the Waters and Water Dependent Natural Resources of the Basin, determined on the basis of significant impacts to the physical, chemical, and biological integrity of Source Watersheds, and that all other objectives of the Compact are achieved. Each Party may determine the scope and thresholds of its program, including which New or Increased Withdrawals and Consumptive Uses will be subject to the program.

''2. Any Party that fails to set threshold levels that comply with Section 4.10.1 any time before 10 years after the effective date of this Compact shall apply a threshold level for management and regulation of all New or Increased Withdrawals of 100,000 gallons per day or greater average in any 90 day period.

''3. The Parties intend programs for New or Increased Withdrawals and Consumptive Uses to evolve as may be necessary to protect Basin Waters. Pursuant to Section 3.4, the Council, in cooperation with the Provinces, shall periodically assess the Water management programs of the Parties. Such assessments may produce recommendations for the strengthening of the programs, including without limitation, establishing lower thresholds for management and regulation in accordance with the Decision-Making Standard.

''Section 4.11. Decision-Making Standard.

''Proposals subject to management and regulation in Section 4.10 shall be declared to meet this Decision-Making Standard and may be approved as appropriate only when the following criteria are met:

''1. All Water Withdrawn shall be returned, either naturally or after use, to the Source Watershed less an allowance for Consumptive Use;

''2. The Withdrawal or Consumptive Use will be implemented so as to ensure that the Proposal will result in no significant individual or cumulative adverse impacts to the quantity or quality of the Waters and Water Dependent Natural Resources and the applicable Source Watershed;

''3. The Withdrawal or Consumptive Use will be implemented so as to incorporate Environmentally Sound and Economically Feasible Water Conservation Measures;

''4. The Withdrawal or Consumptive Use will be implemented so as to ensure that it is in compliance with all applicable municipal, State and federal laws as well as regional interstate and international agreements, including the Boundary Waters Treaty of 1909;

''5. The proposed use is reasonable, based upon a consideration of the following factors:

''a. Whether the proposed Withdrawal or Consumptive Use is planned in a fashion that provides for efficient use of the water, and will avoid or minimize the waste of Water;

''b. If the Proposal is for an increased Withdrawal or Consumptive use, whether efficient use is made of existing water supplies;

''c. The balance between economic development, social development and environmental protection of the proposed Withdrawal and use and other existing or planned withdrawals and water uses sharing the water source;

''d. The supply potential of the water source, considering quantity, quality, and reliability and safe yield of hydrologically interconnected water sources;

''e. The probable degree and duration of any adverse impacts caused or expected to be caused by the proposed Withdrawal and use under foreseeable conditions, to other lawful consumptive or non-consumptive uses of water or to the quantity or quality of the Waters and Water Dependent Natural Resources of the Basin, and the proposed plans and arrangements for avoidance or mitigation of such impacts; and,

''f. If a Proposal includes restoration of hydrologic conditions and functions of the Source Watershed, the Party may consider that.

''Section 4.12. Applicability.

''1. Minimum Standard. This Standard of Review and Decision shall be used as a minimum standard. Parties may impose a more restrictive decision-making standard for Withdrawals under their authority. It is also acknowledged that although a Proposal meets the Standard of Review and Decision it may not be approved under the laws of the Originating Party that has implemented more restrictive Measures.

''2. Baseline.

''a. To establish a baseline for determining a New or Increased Diversion, Consumptive Use or Withdrawal, each Party shall develop either or both of the following lists for their jurisdiction:

''i. A list of existing Withdrawal approvals as of the effective date of the Compact;

''ii. A list of the capacity of existing systems as of the effective date of this Compact. The capacity of the existing systems should be presented in terms of Withdrawal capacity, treatment capacity, distribution capacity, or other capacity limiting factors. The capacity of the existing systems must represent the state of the systems. Existing capacity determinations shall be based upon approval limits or the most restrictive capacity information.

''b. For all purposes of this Compact, volumes of Diversions, Consumptive Uses, or Withdrawals of Water set forth in the list(s) prepared by each Party in accordance with this Section, shall constitute the baseline volume.

''c. The list(s) shall be furnished to the Regional Body and the Council within one year of the effective date of this Compact.

''3. Timing of Additional Applications. Applications for New or Increased Withdrawals, Consumptive Uses or Exceptions shall be considered cumulatively within ten years of any application.

''4. Change of Ownership. Unless a new owner proposes a project that shall result in a Proposal for a New or Increased Diversion or Consumptive Use subject to Regional Review or Council approval, the change of ownership in and of itself shall not require Regional Review or Council approval.

''5. Groundwater. The Basin surface water divide shall be used for the purpose of managing and regulating New or Increased Diversions, Consumptive Uses or Withdrawals of surface water and groundwater.

''6. Withdrawal Systems. The total volume of surface water and groundwater resources that supply a common distribution system shall determine the volume of a Withdrawal, Consumptive Use or Diversion.

''7. Connecting Channels. The watershed of each Great Lake shall include its upstream and downstream connecting channels.

''8. Transmission in Water Lines. Transmission of Water within a line that extends outside the Basin as it conveys Water from one point to another within the Basin shall not be considered a Diversion if none of the Water is used outside the Basin.

''9. Hydrologic Units. The Lake Michigan and Lake Huron watersheds shall be considered to be a single hydrologic unit and watershed.

''10. Bulk Water Transfer. A Proposal to Withdraw Water and to remove it from the Basin in any container greater than 5.7 gallons shall be treated under this Compact in the same manner as a Proposal for a Diversion. Each Party shall have the discretion, within its jurisdiction, to determine the treatment of Proposals to Withdraw Water and to remove it from the Basin in any container of 5.7 gallons or less.

''Section 4.13. Exemptions.

''Withdrawals from the Basin for the following purposes are exempt from the requirements of Article 4.

''1. To supply vehicles, including vessels and aircraft, whether for the needs of the persons or animals being transported or for ballast or other needs related to the operation of the vehicles.

''2. To use in a non-commercial project on a short-term basis for firefighting, humanitarian, or emergency response purposes.

''Section 4.14. U.S. Supreme Court Decree: Wisconsin et al. v. Illinois et al.

''1. Notwithstanding any terms of this Compact to the contrary, with the exception of Paragraph 5 of this Section, current, New or Increased Withdrawals, Consumptive Uses and Diversions of Basin Water by the State of Illinois shall be governed by the terms of the United States Supreme Court decree in Wisconsin et al. v. Illinois et al. and shall not be subject to the terms of this Compact nor any rules or regulations promulgated pursuant to this Compact. This means that, with the exception of Paragraph 5 of this Section, for purposes of this Compact, current, New or Increased Withdrawals, Consumptive Uses and Diversions of Basin Water within the State of Illinois shall be allowed unless prohibited by the terms of the United States Supreme Court decree in Wisconsin et al. v. Illinois et al.

''2. The Parties acknowledge that the United States Supreme Court decree in Wisconsin et al. v. Illinois et al. shall continue in full force and effect, that this Compact

shall not modify any terms thereof, and that this Compact shall grant the parties no additional rights, obligations, remedies or defenses thereto. The Parties specifically acknowledge that this Compact shall not prohibit or limit the State of Illinois in any manner from seeking additional Basin Water as allowed under the terms of the United States Supreme Court decree in Wisconsin et al. v. Illinois et al., any other party from objecting to any request by the State of Illinois for additional Basin Water under the terms of said decree, or any party from seeking any other type of modification to said decree. If an application is made by any party to the Supreme Court of the United States to modify said decree, the Parties to this Compact who are also parties to the decree shall seek formal input from the Canadian Provinces of Ontario and Québec, with respect to the proposed modification, use best efforts to facilitate the appropriate participation of said Provinces in the proceedings to modify the decree, and shall not unreasonably impede or restrict such participation.

''3. With the exception of Paragraph 5 of this Section, because current, New or Increased Withdrawals, Consumptive Uses and Diversions of Basin Water by the State of Illinois are not subject to the terms of this Compact, the State of Illinois is prohibited from using any term of this Compact, including Section 4.9, to seek New or Increased Withdrawals, Consumptive Uses or Diversions of Basin Water.

''4. With the exception of Paragraph 5 of this Section, because Sections 4.3, 4.4, 4.5, 4.6, 4.7, 4.8, 4.9, 4.10, 4.11, 4.12 (Paragraphs 1, 2, 3, 4, 6 and 10 only), and 4.13 of this Compact all relate to current, New or Increased Withdrawals, Consumptive Uses and Diversions of Basin Waters, said provisions do not apply to the State of Illinois. All other provisions of this Compact not listed in the preceding sentence shall apply to the State of Illinois, including the Water Conservation Programs provision of Section 4.2.

''5. In the event of a Proposal for a Diversion of Basin Water for use outside the territorial boundaries of the Parties to this Compact, decisions by the State of Illinois regarding such a Proposal would be subject to all terms of this Compact, except Paragraphs 1, 3 and 4 of this Section.

''6. For purposes of the State of Illinois' participation in this Compact, the entirety of this Section 4.14 is necessary for the continued implementation of this Compact and, if severed, this Compact shall no longer be binding on or enforceable by or against the State of Illinois.

"Section 4.15. Assessment of Cumulative Impacts.

''1. The Parties in cooperation with the Provinces shall collectively conduct within the Basin, on a Lake watershed and St. Lawrence River Basin basis, a periodic assessment of the Cumulative Impacts of Withdrawals, Diversions and Consumptive Uses from the Waters of the Basin, every 5 years or each time the incremental Basin Water losses reach 50 million gallons per day average in any 90-day period in excess of the quantity at the time of the most recent assessment, whichever comes first, or at the request of one or more of the Parties. The assessment shall form the basis for a review of the Standard of Review and Decision, Council and Party regulations and their application. This assessment shall:

''a. Utilize the most current and appropriate guidelines for such a review, which may include but not be limited to Council on Environmental Quality and Environment Canada guidelines;

''b. Give substantive consideration to climate change or other significant threats to Basin Waters and take into account the current state of scientific knowledge, or uncertainty, and appropriate Measures to exercise caution in cases of uncertainty if serious damage may result;

''c. Consider adaptive management principles and approaches, recognizing, considering and providing adjustments for the uncertainties in, and evolution of science concerning the Basin's water resources, watersheds and ecosystems, including potential changes to Basin-wide processes, such as lake level cycles and climate.

''2. The Parties have the responsibility of conducting this Cumulative Impact assessment. Applicants are not required to participate in this assessment.

''3. Unless required by other statutes, Applicants are not required to conduct a separate cumulative impact assessment in connection with an Application but shall submit information about the potential impacts of a Proposal to the quantity or quality of the Waters and Water Dependent Natural Resources of the applicable Source Watershed. An Applicant may, however, provide an analysis of how their Proposal meets the no significant adverse Cumulative Impact provision of the Standard of Review and Decision.

"ARTICLE 5

"TRIBAL CONSULTATION

"Section 5.1. Consultation with Tribes.

''1. In addition to all other opportunities to comment pursuant to Section 6.2, appropriate consultations shall occur with federally recognized Tribes in the Originating Party for all Proposals subject to Council or Regional Review pursuant to this Compact. Such consultations shall be organized in the manner suitable to the individual Proposal and the laws and policies of the Originating Party.

''2. All federally recognized Tribes within the Basin shall receive reasonable notice indicating that they have an opportunity to comment in writing to the Council or the Regional Body, or both, and other relevant organizations on whether the Proposal meets the requirements of the Standard of Review and Decision when a Proposal is subject to Regional Review or Council approval. Any notice from the Council shall inform the Tribes of any meeting or hearing that is to be held under Section 6.2 and invite them to attend. The Parties and the Council shall consider the comments received under this Section before approving, approving with modifications or disapproving any Proposal subject to Council or Regional Review.

''3. In addition to the specific consultation mechanisms described above, the Council shall seek to establish mutually-agreed upon mechanisms or processes to facilitate dialogue with, and input from federally recognized Tribes on matters to be dealt with by the Council; and, the Council shall seek to establish mechanisms and processes with federally recognized Tribes designed to facilitate on-going scientific and technical interaction and data exchange regarding matters falling within the scope of this Compact. This may include participation of tribal representatives on advisory committees established under this Compact or such other processes that are mutually-agreed upon with federally recognized Tribes individually or through duly-authorized intertribal agencies or bodies.

"ARTICLE 6

"PUBLIC PARTICIPATION

"Section 6.1. Meetings, Public Hearings and Records.

''1. The Parties recognize the importance and necessity of public participation in promoting management of the Water Resources of the Basin. Consequently, all meetings of the Council shall be open to the public, except with respect to issues of personnel.

''2. The minutes of the Council shall be a public record open to inspection at its offices during regular business hours.

"Section 6.2. Public Participation.

''It is the intent of the Council to conduct public participation processes concurrently and jointly with processes undertaken by the Parties and through Regional Review. To ensure adequate public participation, each Party or the Council shall ensure procedures for the review of Proposals subject to the Standard of Review and Decision consistent with the following requirements:

''1. Provide public notification of receipt of all Applications and a reasonable opportunity for the public to submit comments before Applications are acted upon.

''2. Assure public accessibility to all documents relevant to an Application, including public comment received.

''3. Provide guidance on standards for determining whether to conduct a public meeting or hearing for an Application, time and place of such a meeting(s) or hearing(s), and procedures for conducting of the same.

''4. Provide the record of decision for public inspection including comments, objections, responses and approvals, approvals with conditions and disapprovals.

"ARTICLE 7

"DISPUTE RESOLUTION AND ENFORCEMENT

"Section 7.1. Good Faith Implementation.

''Each of the Parties pledges to support implementation of all provisions of this Compact, and covenants that its officers and agencies shall not hinder, impair, or prevent any other Party carrying out any provision of this Compact.

"Section 7.2. Alternative Dispute Resolution.

''1. Desiring that this Compact be carried out in full, the Parties agree that disputes between the Parties regarding interpretation, application and implementation of this Compact shall be settled by alternative dispute resolution.

''2. The Council, in consultation with the Provinces, shall provide by rule procedures for the resolution of disputes pursuant to this section.

"Section 7.3. Enforcement.

''1. Any Person aggrieved by any action taken by the Council pursuant to the authorities contained in this Compact shall be entitled to a hearing before the Council. Any Person aggrieved by a Party action shall be entitled to a hearing pursuant to the relevant Party's administrative procedures and laws. After exhaustion of such administrative remedies, (i) any aggrieved Person shall have the right to judicial review of a Council action in the United States District Courts for the District of Columbia or the District Court in which the Council maintains offices, provided such action is commenced within 90 days; and, (ii) any aggrieved Person shall have the right to judicial review of a Party's action in the relevant Party's court of competent jurisdiction, provided that an action or proceeding for such review is commenced within the time frames provided for by the Party's law. For the purposes of this paragraph, a State or Province is deemed to be an aggrieved Person with respect to any Party action pursuant to this Compact.

''2. a. Any Party or the Council may initiate actions to compel compliance with the provisions of this Compact, and the rules and regulations promulgated hereunder by the Council. Jurisdiction over such actions is granted to the court of the relevant Party, as well as the United States District Courts for the District of Columbia and the District Court in which the Council maintains offices. The remedies available to any such

court shall include, but not be limited to, equitable relief and civil penalties.

''b. Each Party may issue orders within its respective jurisdiction and may initiate actions to compel compliance with the provisions of its respective statutes and regulations adopted to implement the authorities contemplated by this Compact in accordance with the provisions of the laws adopted in each Party's jurisdiction.

''3. Any aggrieved Person, Party or the Council may commence a civil action in the relevant Party's courts and administrative systems to compel any Person to comply with this Compact should any such Person, without approval having been given, undertake a New or Increased Withdrawal, Consumptive Use or Diversion that is prohibited or subject to approval pursuant to this Compact.

''a. No action under this subsection may be commenced if:

''i. The Originating Party or Council approval for the New or Increased Withdrawal, Consumptive Use or Diversion has been granted; or,

''ii. The Originating Party or Council has found that the New or Increased Withdrawal, Consumptive Use or Diversion is not subject to approval pursuant to this Compact.

''b. No action under this subsection may be commenced unless:

''i. A Person commencing such action has first given 60 days prior notice to the Originating Party, the Council and Person alleged to be in noncompliance; and,

''ii. Neither the Originating Party nor the Council has commenced and is diligently prosecuting appropriate enforcement actions to compel compliance with this Compact.

The available remedies shall include equitable relief, and the prevailing or substantially prevailing party may recover the costs of litigation, including reasonable attorney and expert witness fees, whenever the court determines that such an award is appropriate.

''4. Each of the Parties may adopt provisions providing additional enforcement mechanisms and remedies including equitable relief and civil penalties applicable within its jurisdiction to assist in the implementation of this Compact.

''ARTICLE 8

''ADDITIONAL PROVISIONS

''Section 8.1. Effect on Existing Rights.

''1. Nothing in this Compact shall be construed to affect, limit, diminish or impair any rights validly established and existing as of the effective date of this Compact under State or federal law governing the Withdrawal of Waters of the Basin.

''2. Nothing contained in this Compact shall be construed as affecting or intending to affect or in any way to interfere with the law of the respective Parties relating to common law Water rights.

''3. Nothing in this Compact is intended to abrogate or derogate from treaty rights or rights held by any Tribe recognized by the federal government of the United States based upon its status as a Tribe recognized by the federal government of the United States.

''4. An approval by a Party or the Council under this Compact does not give any property rights, nor any exclusive privileges, nor shall it be construed to grant or confer any right, title, easement, or interest in, to or over any land belonging to or held in trust by a Party; neither does it authorize any injury to private property or invasion of private rights, nor infringement of federal, State or local laws or regulations; nor does it obviate the necessity of obtaining federal assent when necessary.

''Section 8.2. Relationship to Agreements Concluded by the United States of America.

''1. Nothing in this Compact is intended to provide nor shall be construed to provide, directly or indirectly, to any Person any right, claim or remedy under any treaty or international agreement nor is it intended to derogate any right, claim, or remedy that already exists under any treaty or international agreement.

''2. Nothing in this Compact is intended to infringe nor shall be construed to infringe upon the treaty power of the United States of America, nor shall any term hereof be construed to alter or amend any treaty or term thereof that has been or may hereafter be executed by the United States of America.

''3. Nothing in this Compact is intended to affect nor shall be construed to affect the application of the Boundary Waters Treaty of 1909 whose requirements continue to apply in addition to the requirements of this Compact.

''Section 8.3. Confidentiality.

''1. Nothing in this Compact requires a Party to breach confidentiality obligations or requirements prohibiting disclosure, or to compromise security of commercially sensitive or proprietary information.

''2. A Party may take measures, including but not limited to deletion and redaction, deemed necessary to protect any confidential, proprietary or commercially sensitive information when distributing information to other Parties. The Party shall summarize or paraphrase any such information in a manner sufficient for the Council to exercise its authorities contained in this Compact.

''Section 8.4. Additional Laws.

''Nothing in this Compact shall be construed to repeal, modify or qualify the authority of any Party to enact any legislation or enforce any additional conditions and restrictions regarding the management and regulation of Waters within its jurisdiction.

''Section 8.5. Amendments and Supplements.

''The provisions of this Compact shall remain in full force and effect until amended by action of the governing bodies of the Parties and consented to and approved by any other necessary authority in the same manner as this Compact is required to be ratified to become effective.

''Section 8.6. Severability.

''Should a court of competent jurisdiction hold any part of this Compact to be void or unenforceable, it shall be considered severable from those portions of the Compact capable of continued implementation in the absence of the voided provisions. All other provisions capable of continued implementation shall continue in full force and effect.

''Section 8.7. Duration of Compact and Termination.

''Once effective, the Compact shall continue in force and remain binding upon each and every Party unless terminated. This Compact may be terminated at any time by a majority vote of the Parties. In the event of such termination, all rights established under it shall continue unimpaired.

''ARTICLE 9

''EFFECTUATION

''Section 9.1. Repealer.

''All acts and parts of acts inconsistent with this act are to the extent of such inconsistency hereby repealed.

''Section 9.2. Effectuation by Chief Executive.

''The Governor is authorized to take such action as may be necessary and proper in his or her discretion to effectuate the Compact and the initial organization and operation thereunder.

''Section 9.3. Entire Agreement.

''The Parties consider this Compact to be complete and an integral whole. Each provision of this Compact is considered material to the entire Compact, and failure to implement or adhere to any provision may be considered a material breach. Unless otherwise noted in this Compact, any change or amendment made to the Compact by any Party in its implementing legislation or by the U.S. Congress when giving its consent to this Compact is not considered effective unless concurred in by all Parties.

''Section 9.4. Effective Date and Execution.

''This Compact shall become binding and effective when ratified through concurring legislation by the states of Illinois, Indiana, Michigan, Minnesota, New York, Ohio and Wisconsin and the Commonwealth of Pennsylvania and consented to by the Congress of the United States. This Compact shall be signed and sealed in nine identical original copies by the respective chief executives of the signatory Parties. One such copy shall be filed with the Secretary of State of each of the signatory Parties or in accordance with the laws of the state in which the filing is made, and one copy shall be filed and retained in the archives of the Council upon its organization. The signatures shall be affixed and attested under the following form:

''In Witness Whereof, and in evidence of the adoption and enactment into law of this Compact by the legislatures of the signatory parties and consent by the Congress of the United States, the respective Governors do hereby, in accordance with the authority conferred by law, sign this Compact in nine duplicate original copies, attested by the respective Secretaries of State, and have caused the seals of the respective states to be hereunto affixed this _____ day of (month), (year).'': Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) Congress consents to and approves the interstate compact regarding water resources in the Great Lakes—St. Lawrence River Basin described in the preamble;

(2) until a Great Lakes Water Compact is ratified and enforceable, laws in effect as of the date of enactment of this resolution provide protection sufficient to prevent Great Lakes water diversions; and

(3) Congress expressly reserves the right to alter, amend, or repeal this resolution.

TENTH ANNIVERSARY OF UNITED STATES EMBASSIES BOMBINGS

Ms. CANTWELL. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 912, S. Res. 618.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 618) recognizing the 10th anniversary of the bombings of the United States Embassies in Nairobi, Kenya and Dar es Salaam, Tanzania, and memorializing the citizens of the United States, Kenya, and Tanzania whose lives were claimed as a result of the al Qaeda led terrorist attacks.

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

Ms. CANTWELL. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements related to this measure be printed in the RECORD.

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

The resolution (S. Res. 618) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 618

Whereas on August 7, 1998, the al Qaeda terrorist group, led by Osama bin Laden, organized nearly simultaneous vehicular bombing attacks on the United States embassies in Nairobi and Dar es Salaam;

Whereas approximately 4,000 people were injured in the Nairobi bombing, including 14 United States citizens, 13 Foreign Service Nationals, and 2 contractors;

Whereas 213 people were killed in the bombing in Nairobi, including victims who were employees of the United States Government, or were family members of employees of the United States Government, namely—

(1) the following United States citizens: Nathan Aliganga, Julian Bartley, Sr., Julian Bartley, Jr., Jean Dalizu, Molly Hardy, Kenneth Hobson, Prabhi Kavaler, Arlene Kirk, Dr. Mary Louise Martin, Michelle O'Connor, Sherry Olds, and Uttamlal (Tom) Shah;

(2) the following Foreign Service Nationals: Chrispin W. Bonyo, Lawrence A. Gitau, Hindu O. Idi, Tony Irungu, Geoffrey Kalio, G. Joel Kamau, Lucy N. Karigi, Francis M. Kibe, Joe Kiongo, Dominic Kithuva, Peter K. Macharia, Francis W. Maina, Cecelia Mamboleo, Lydia M. Mayaka, Francis Mbugua Ndungu, Kimeu N. Nganga, Francis Mbogo Njunge, Vincent Nyoike, Francis Olewe Ochilo, Maurice Okach, Edwin A.O. Omori, Lucy G. Onono, Evans K. Onsongo, Eric Onyango, Sellah Caroline Opati, Rachel M. Pussy, Farhat M. Sheikh, Phaedra Vrontamitis, Adams T. Wamai, Frederick M. Yafes; and

(3) the following contractors: Moses Namayi and Josiah Odero Owuor;

Whereas 85 people were injured in the Dar es Salaam bombing, including 2 United States citizens and 5 Foreign Service Nationals;

Whereas 1 Foreign Service National working at the Dar es Salaam embassy, Saidi Rogarth, is still listed by the Department of State as missing;

Whereas 11 people were killed in the Dar es Salaam bombing, including—

(1) Yusuf Ndange, a Foreign Service National; and

(2) the following contractors: Abdulrahaman Abdalla, Paul E. Elisha, Abdalla Mnyola, Abbas William Mwilla, Bakari Nyumbu, Mtendeje Rajabu, Ramadhani Mahundi, and Dotto Ramadhani;

Whereas damage to both buildings was extensive, rendering the facilities unusable;

Whereas the outpouring of aid and assistance from the people and Governments of Kenya and Tanzania was widespread and greatly appreciated by the people of the United States;

Whereas security guards at both embassies acted bravely on the day of the bombings, protecting the lives and property of citizens of the United States, Kenya, and Tanzania;

Whereas the United States embassies in both Nairobi and Dar es Salaam have been rebuilt;

Whereas the United States Government is partnering with the people and Governments of Kenya and Tanzania to help both countries obtain a more democratic future;

Whereas 12 of the suspects indicted in the case have either been killed, captured, or are serving life sentences without parole; and

Whereas the United States Government continues to search for the remaining suspects, including Osama bin Laden: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the historic significance of the tenth anniversary of the al Qaeda bombings of the United States embassies in Nairobi, Kenya and Dar es Salaam, Tanzania;

(2) mourns the loss of those who lost their lives in these tragic and senseless attacks, especially those who were employed by the embassies;

(3) remembers the families and colleagues of the victims whose lives have been forever changed by the loss endured on August 7, 1998;

(4) expresses its deepest gratitude to the people of Kenya and Tanzania for their gracious contributions and assistance following these attacks;

(5) reaffirms its support for the people of Kenya and Tanzania in striving for future opportunity, democracy, and prosperity; and

(6) reaffirms its resolve to defeat al Qaeda and other terrorist organizations.

WELCOMING HOME FARC HOSTAGES

Ms. CANTWELL. I ask unanimous consent that the Committee on Foreign Relations be discharged from further consideration of S. Res. 627 and the Senate proceed to its immediate consideration.

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

The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 627) welcoming home Keith Stansell, Thomas Howes, and Marc Gonsalves, three citizens of the United States who were held hostage for over 5 years by the Revolutionary Armed Forces of Colombia, FARC, after their plane crashed on February 13, 2003.

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

Ms. CANTWELL. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements be printed in the RECORD.

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

The resolution (S. Res. 627) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 627

Whereas a Congressional Resolution in 2007 (S. Con. Res. 53) condemned the kidnapping and hostage-taking of three citizens of the United States, Keith Stansell, Thomas Howes, and Marc Gonsalves for over four years by the FARC, and demanded their immediate and unconditional release;

Whereas the Senate expresses sorrow at the murder of Tom Janis by the FARC, another citizen of the United States that was on the downed aircraft, and Luis Alcedes Cruz, a member of the Colombian military, as well as citizens of the United States who died during a hostage search mission in 2003;

Whereas the Government of Colombia carried out a historic rescue mission on July 2, 2008, freeing 15 hostages who the FARC had kidnapped and held in captivity, including these three citizens of the United States, Ingrid Betancourt, and military and police personnel of Colombia;

Whereas the armed forces of Colombia planned, led, and executed the rescue operation without a single gunshot;

Whereas the United States Government played a key supportive role in the rescue mission by the armed forces of Colombia;

Whereas the FARC is designated as a foreign terrorist organization by the Department of State and the European Union;

Whereas the FARC utilizes kidnappings for ransom, extortion, and the drug trade to finance its activities;

Whereas the FARC committed atrocities against citizens of both Colombia and the United States;

Whereas the FARC has kidnapped at least 36 citizens of the United States since 1980, and killed 10 citizens of the United States;

Whereas the FARC currently holds an estimated 700 people as hostages; and

Whereas over 50 FARC leaders have been indicted in the United States for drug trafficking: Now, therefore, be it

Resolved, That the Senate—

(1) welcomes Keith Stansell, Thomas Howes, and Marc Gonsalves home to the United States after being held for over five years by the Revolutionary Armed Forces of Colombia (FARC);

(2) celebrates with the families and relatives of the hostages who kept faith despite being unsure of the fates of their family members for more than five years;

(3) expresses gratitude to the Government of Colombia and the armed forces of Colombia for successfully rescuing the hostages, and applauds the effective contribution of the United States Government to this effort;

(4) calls for the immediate release of all hostages held by the FARC and other armed terrorist groups in Colombia; and

(5) urges the FARC to lay down their weapons and reject terrorism.

NATIONAL TRUANCY PREVENTION MONTH

Ms. CANTWELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 924, S. Res. 624.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 624) designating August 2008 as ''National Truancy Prevention Month.''

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

Ms. CANTWELL. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements related to the resolution be printed in the RECORD.

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

The resolution (S. Res. 624) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 624

Whereas public schools in the United States are facing a dropout crisis, with approximately 1,200,000 students not graduating from high school on time and only 70 percent of students earning high school diplomas;

Whereas truancy has been shown to be the first and best indicator that a child will drop out of school, use marijuana for the first

time, and commit juvenile crimes by the age of 15;

Whereas the incidence of truancy in a recent national survey found that 11 percent of eighth grade students, 16 percent of tenth grade students, and 35 percent of twelfth grade students reported skipping 1 or more days of school during the previous 30 days;

Whereas chronic truants often miss more days of school than they attend;

Whereas absentee rates relate directly to graduation rates and are highest in public schools in urban areas;

Whereas truant eighth graders are more likely to say they do not believe they will graduate from high school or attend college than their peers who attend regularly;

Whereas truancy has been found to be a risk factor for substance abuse, teen pregnancy, and school dropout;

Whereas the average annual income for a high school dropout in 2005 was $17,299, compared to $26,933 for a high school graduate;

Whereas it has been demonstrated that when truancy is addressed, there is a reduction in the rates of daytime crime, juvenile crime, drug use, and delinquency;

Whereas effective truancy reduction programs can take many forms and can be implemented in many different settings, including in schools, courts, and through community programs;

Whereas truancy prevention programs focused on middle grade students are key to preventing future dropouts; and

Whereas truancy reduction programs are highly cost effective, reduce juvenile and adult crime, and save taxpayer money: Now, therefore, be it

Resolved, That the Senate—

(1) designates August 2008 as ''National Truancy Prevention Month'';

(2) recognizes the significant harm of chronic truancy to the youth of the United States;

(3) acknowledges the work being done by truancy prevention programs throughout the United States to help at-risk youth; and

(4) encourages law enforcement, school officials, the judiciary, community leaders, and the business community to work together to address truancy.

NATIONAL AIRBORNE DAY

Ms. CANTWELL. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged and the Senate now proceed to the consideration of S. Res. 625.

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

The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 625) designating August 16, 2008, as National Airborne Day.

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

Ms. CANTWELL. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table.

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

The resolution (S. Res. 625) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 625

Whereas the airborne forces of the Armed Forces have a long and honorable history as units of adventuresome, hardy, and fierce warriors who, for the national security of the United States and the defense of freedom and peace, project the effective ground combat power of the United States by Air Force air transport to the far reaches of the battle area and, indeed, to the far corners of the world;

Whereas August 16 marks the anniversary of the first official Army parachute jump on August 16, 1940, an event that validated the innovative concept of inserting United States ground combat forces behind the battle line by means of a parachute;

Whereas the United States experiment of airborne infantry attack began on June 25, 1940, when the Army Parachute Test Platoon was first authorized by the Department of War, and was launched when 48 volunteers began training in July 1940;

Whereas the success of the Parachute Test Platoon in the days immediately preceding the entry of the United States into World War II led to the formation of a formidable force of airborne units that have served with distinction and have had repeated success in armed hostilities;

Whereas among those airborne units are the former 11th, 13th, and 17th Airborne Divisions, the venerable 82nd Airborne Division, the versatile 101st Airborne Division (Air Assault), and the airborne regiments and battalions (some as components of those divisions, some as separate units) that achieved distinction as the elite 75th Ranger Regiment, the 173rd Airborne Brigade, the 187th Infantry (Airborne) Regiment, the 503rd, 507th, 508th, 517th, 541st, and 542nd Parachute Infantry Regiments, the 88th Glider Infantry Regiment, the 509th, 551st, and 555th Parachute Infantry Battalions, the 325th and 327th Glider Infantry, and the 550th Airborne Infantry Battalion;

Whereas the achievements of the airborne forces during World War II prompted the evolution of those forces into a diversified force of parachute and air assault units that, over the years, have fought in Korea, Vietnam, Grenada, Panama, the Persian Gulf region, and Somalia, and have engaged in peacekeeping operations in Lebanon, the Sinai Peninsula, the Dominican Republic, Haiti, Bosnia, and Kosovo;

Whereas the modern-day airborne force that has evolved from those World War II beginnings is an agile, powerful force that, in large part, is composed of the 82nd Airborne Division, the 101st Airborne Division (Air Assault), and the 75th Ranger Regiment;

Whereas the modern-day airborne force also includes other elite forces composed entirely of airborne trained and qualified special operations warriors, including Army Special Forces, Marine Corps Reconnaissance units, Navy SEALs, and Air Force combat control teams, all or most of which comprise the forces of the United States Special Operations Command;

Whereas in the aftermath of the terrorist attacks on the United States on September 11, 2001, the 75th Ranger Regiment, special forces units, and units of the 82nd Airborne Division and the 101st Airborne Division (Air Assault), together with other units of the Armed Forces, have been prosecuting the war against terrorism by carrying out combat operations in Afghanistan, training operations in the Philippines, and other operations elsewhere;

Whereas in the aftermath of the President's announcement of Operation Iraqi Freedom in March 2003, the 75th Ranger Regiment, special forces units, and units of the 82nd Airborne Division, the 101st Airborne Division (Air Assault), the 173rd Airborne Brigade, and the 4th Brigade Combat Team (Airborne) of the 25th Infantry Division, together with other units of the Armed Forces, have been prosecuting the war against terrorism, carrying out combat operations, conducting civil affairs missions, and assisting in establishing democracy in Iraq;

Whereas the airborne forces are and will continue to be at the ready and the forefront until the Global War on Terrorism is concluded;

Whereas of the members and former members of the United States airborne forces, all have achieved distinction by earning the right to wear the airborne's ''Silver Wings of Courage'', thousands have achieved the distinction of making combat jumps, 69 have earned the Medal of Honor, and hundreds have earned the Distinguished-Service Cross, Silver Star, or other decorations and awards for displays of such traits as heroism, gallantry, intrepidity, and valor;

Whereas the members and former members of the United States airborne forces are members of a proud and honorable fraternity of the profession of arms that is made exclusive by those distinctions which, together with their special skills and achievements, distinguish them as intrepid combat parachutists, special operation forces, and (in former days) glider troops;

Whereas the history and achievements of the members and former members of the airborne forces of the United States Armed Forces warrant special expressions of the gratitude of the American people; and

Whereas, since the airborne community celebrates August 16 as the anniversary of the first official jump by the Army Parachute Test Platoon, August 16 would be an appropriate day to recognize as National Airborne Day: Now, therefore, be it

Resolved, That the Senate—

(1) designates August 16, 2008, as ''National Airborne Day''; and

(2) calls on the people of the United States to observe ''National Airborne Day'' with appropriate programs, ceremonies, and activities.

SUPPORTING THE GOALS AND IDEALS OF THE INTERNATIONAL YEAR OF SANITATION

Ms. CANTWELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 775, H. Con. Res. 318.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 318) supporting the goals and ideals of the International Year of Sanitation.

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

Ms. CANTWELL. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the measure be printed in the RECORD.

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

The concurrent resolution (H. Con. Res. 318) was agreed to.

The preamble was agreed to.

MEASURE READ THE FIRST TIME—S. 3430

Ms. CANTWELL. Mr. President, I understand that S. 3430, introduced earlier today by Senator COBURN, is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the title of the bill for the first time.

The assistant legislative clerk read as follows:

A bill (S. 3430) to provide for the investigation of certain unsolved civil rights crimes, and for other purposes.

Ms. CANTWELL. Mr. President, I now ask for its second reading and object to my own request.

The PRESIDING OFFICER. Objection is heard.

The bill will be read the second time on the next legislative day.

EMMETT TILL UNSOLVED CIVIL RIGHTS CRIME ACT

Mr. COBURN. Mr. President, I ask unanimous consent to have printed in the RECORD an article from the Atlanta Journal-Constitution, which profiles Mr. Alvin Sykes. Mr. Sykes and I have worked closely together to reach a compromise on this bill, and I would like the story of his life and his work on this legislation to be part of the record.

I would also ask unanimous consent to have printed in the RECORD a message from Mr. Sykes to me, expressing support for the compromise.

Finally, I ask unanimous consent to have printed in the RECORD three letters. The first is to the bill's sponsor, Senator CHRIS DODD, explaining my objection to the legislation. The letter is dated June 25, 2007. The second is a subsequent letter to Senator DODD, seeking a UC agreement for floor time on the bill, dated June 19, 2008. The third is a similar letter to Senator REID, sent the same day.

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

[From the Atlanta Journal-Constitution, Jun. 3, 2007]

CIVIL RIGHTS-ERA MURDER CASES: ''ANOTHER DAY FOR JUSTICE''—SELF-TAUGHT LEGAL EXPERT ALVIN SYKES IS ON A QUEST TO GET LONG-UNPURSUED SUSPECTS INTO COURT BEFORE IT'S TOO LATE

(By Drew Jubera)

JACKSON, MISS.—A fourth-floor courtroom filled here last week much the way Southern courtrooms now fill every few years for a civil rights-era murder case.

The 71-year-old defendant, James Seale, requested headphones as he sat with his lawyers during jury selection so he could hear the proceedings.

The former crop duster and reputed Klansman is charged with kidnapping and conspiracy in connection with the May 2, 1964, abduction and killings of two black teenagers. The bodies of Henry Dee and Charles Moore were found in the Mississippi River, tied to a Jeep engine block.

Seale has pleaded not guilty to the federal charges.

Also inside the downtown courthouse: aging relatives of the murdered boys, including Thomas Moore, 63, a Vietnam veteran who worked almost a decade to get his brother's moldering case reopened.

Before entering this historic scene and sitting in a rear pew, Alvin Sykes tugged at his blue-jean jacket, stroked his scraggly goatee and exhaled.

''Another day for justice,'' said Sykes, an improbable presence at yet another improbable decades-old case.

Sykes, a high school dropout and practicing Buddhist who once lived in a homeless shelter and learned the law reading books in public libraries, has become both a catalyst and an inspiration during the 11th-hour rush to reopen these old murder cases before the killers die off.

Since 1989, authorities in Mississippi and six other states have re-examined 29 civil rights-era murders, with 28 resulting arrests and 22 convictions.

The FBI has uncovered 51 more killings, and the Southern Poverty Law Center has a list of 127 race-related killings between 1954 and 1968.

It's in this atmosphere that Sykes has brokered meetings with people as various as U.S. senators, district attorneys and victims' relatives to seek long-delayed justice.

His behind-the-scenes maneuvering was key to the FBI's reinvestigation of the infamous 1955 murder of Emmett Till, a black Chicago teen brutally killed after he allegedly whistled at a white woman in Money, Miss. (Earlier this year, a Mississippi grand jury did not return an indictment in the case.)

Sykes also generated the idea for legislation now before Congress that grew out of the reopening of that now-52-year-old slaying. Commonly known as the Till Bill, and sponsored in the House of Representatives by Rep. John Lewis (D–Ga.), it would fund a separate unit in the Justice Department devoted to investigating civil rights-era crimes.

''He's a warrior,'' said Moore of the mild-mannered Sykes, whom he credits with inspiring him while he sought justice for his brother. ''Every now and then a person comes along who you say, 'Where'd this guy come from?' Alvin's one of those guys. He might not have this degree or that background, but he has a lot of dedication and inner strength.''

Added Margaret Burnham, a Northeastern University law professor who recently invited Sykes to speak at a conference in Boston about civil rights-era cases, co-sponsored by Harvard University, ''He's a completely self-taught man who's incredibly skilled at knowing what buttons to push, when to push them and what cases the government might respond to. He's better at it than hundreds of people I've met in my long life as a civil rights lawyer.

''He brings a passion and insight to the work that would be extraordinary for anybody—a university-trained academic or lawyer—but it's particularly extraordinary given his personal history.''

Sykes was born to a 14-year-old at a home for unwed mothers, then taken in by a single 48-year-old friend of the family in Kansas City, Mo. He was sickly, in and out of hospitals with epilepsy, and says around age 11 he was sexually abused by a couple that lived across the street.

His formal education was spotty—he spent three years at Boys Town, the facility for at-risk kids in Omaha—then left school for good at 16.

He lived briefly with his biological mother—he thought for years she was a cousin—but says she was an alcoholic and rarely employed. He ran into her years later when he was homeless. She lived at the same shelter.

But Sykes calls leaving school the start of his education. Working nights managing a band, he spent his days holed up in a library. ''Education was important to me—that's the reason I left school,'' he said. ''The administration was more concerned with students getting a piece of paper than an education. So I started teaching myself.''

He also sat in on trials, watching legal strategies, researching what he didn't understand. He became involved in a federal desegregation case with the Kansas City public schools and befriended a Justice Department official. ''I learned about cases and the system and started applying it to real matters,'' he said.

Sykes' work as a victims' advocate became locally renowned after a string of Kansas City musicians were murdered in the late '70s and early '80s. When a white defendant was acquitted of beating a prominent black musician to death, Sykes went back to the library with the victim's wife. ''It was like in the movies,'' he recalled. ''We just kept opening books. Then 10 minutes before closing time, I found it.''

Sykes unearthed an obscure federal statute that allowed the defendant to be prosecuted on a civil rights violation. He sent everything he found to Justice Department lawyer Richard Roberts, now a federal judge in Washington, who got an indictment. The defendant was convicted and received a life sentence.

''His seriousness of purpose was impressive,'' Roberts said. ''It made answering his phone calls much more attractive.''

Sykes had worked for or founded a variety of local victims' rights groups, rarely living on more than $10,000 a year, when in 2003 he read a story about Till's mother wanting her son's case reopened. Two documentarians also suggested there were living suspects beyond the two men, now dead, who were acquitted of the 14-year-old's murder but later bragged about it in an article.

Sykes and Donald Burger, a retired Justice Department official who befriended Sykes during the school desegregation case, met with Mamie Till-Mobley in Chicago and talked about pursuing the case. Till-Mobley died days later, after co-founding, with Sykes and others, the Emmett Till Justice Campaign.

''Alvin was the aggressor,'' said Wheeler Parker, 68, who traveled with Till, his cousin, from Chicago to Mississippi in 1955. ''Don had more contacts and knowledge, but Alvin had the aggressiveness and nerve to pursue it. The fire's in his belly.''

Sykes arranged a meeting in Oxford, Miss., with a U.S. attorney, the district attorney who would prosecute the case, a Till relative and documentarian Keith Beauchamp. The FBI soon agreed to investigate the case for local authorities.

''He was a very adept facilitator,'' recalled Jim Greenlee, the U.S. attorney. ''Without his efforts, the chances for the investigation being reopened would have been much less. I call him a catalyst.''

During the Till investigation, Sykes became aware of dozens of other cold cases from that era. He couldn't create a justice campaign for each one, so he envisioned a unit within the Justice Department with the money, resources and expertise to investigate them all. He sold the idea to Missouri's conservative Republican Sen. Jim Talent, who introduced the so-called Till Bill in 2005.

Talent, who credits Sykes with the initial idea, lost re-election last year, and the original bill stalled. But the Emmett Till Unsolved Civil Rights Crime Act has been reintroduced by Reps. Lewis and Kenny Hulshof (R–Mo.) in the House and Sens. Chris Dodd (D–Conn.) and Patrick Leahy (D–Vt.). It provides $11.5 million annually to look into the era's unsolved murders, and political observers say its chances now look good. Many give Sykes credit.

''He has played the role of public advocate on Capitol Hill to remind legislators who may not have experienced the tragedy of segregation and racial discrimination that unsolved crimes against African-Americans have left an intolerable stain on our democracy,'' said Brenda Jones, spokeswoman for Lewis. ''He has helped remind many members of Congress that we must take steps to right these wrongs.''

Leaving the Jackson courthouse during a break in the Seale trial, which continues with jury selection this week, Sykes shook his head.

''I was sitting there thinking, 'When I was 16, it was just like this.' I was sitting in a courtroom, getting an education.''

Sykes sometimes wishes he could return to the music business, make a better living, have a better life. Living off donations, some speaking fees and a book Till's mother wrote that he sometimes sells out of a bag, he doesn't even own a car. Friends drove him to Jackson.

But he says he can't leave the cause yet. There are still too many low-profile cases he worries will stay lost. Even the Till case languished five decades without a reinvestigation.

''The thing that gets me [maddest] in terms of the Till case,'' he said, ''is the realization that [the two killers who were acquitted on murder charges] could have been tried for kidnapping before they died.

''I have a chip on my shoulder about all the people more knowledgeable than me who could have pursued that case. On my more benevolent days, I say they just didn't know the law enough. On my most cynical days, I say it was just too much work.''

SYKES' SUCCESSES

Sykes' behind-the-scenes maneuvering was key to the FBI's reinvestigation of the 1955 murder of Emmett Till.

Sykes generated the idea for legislation that would create a separate unit in the Justice Department devoted to civil rights-era crimes.

DECADES-OLD CRIMES

Since 1989, officials in Mississippi and other states have taken another look:

29: Number of murders re-examined
28: Number of arrests made
22: Number of guilty verdicts

JULY 31, 2008.

DEAR SENATOR COBURN: First allow me to extend our appreciation and admiration for you and your staff for assistance and communication with us concerning S. 535, the Emmett Till Unsolved Civil Rights Crime Act. While we still believe that the hold that you placed on our bill was not the good way to effect the institutional change in the manner that the United States Senate does business, we do appreciate the open lines of communication and respect that your staff, in particular Brooke Bacak and Tim Tardibono, have shown in negotiating with us on proposed language and conditions that would address your concern and minimize the loss we have suffered from going this route. Therefore our Board of Directors has voted to endorse a unanimous consent agreement that would include the latest draft language that rectifies the concerns with the controversy over the Attorney having authority to reprogram funds from one congressionally directed fund to another by eliminating all reference to reprogramming and replacing with prioritizing spending request if Congress does not fully fund the Till Bill. Furthermore we support you having the right to submit this language as an amendment in the cloture vote process as long as the floor debate time is limited and that you would not replace your hold on our bill if your amendment fails. Nothing in this request is meant to criticize the Senate Leadership on the enormous work that they have done to craft and advocate for the passage of this bill, especially the good work of Patrick Grant in Senator Dodd's office and Darrell Thompson in Senate Majority leader Harry Reid's office who has kept hope alive on this historic bill. However we firmly believe that truth and justice can be best achieved by opening and maintaining effective lines of communication and searching for a win-win justice seeking solution. We further believe that since you started this by placing your hold on our bill, you should be the one to finish it. Therefore the Emmett Till Justice Campaign, Inc. requests that you make an overture to the Democratic Leadership and the sponsors of the Till Bill by introducing the Emmett Till Unsolved Civil Rights Crime Act, as proposed amended, under the Unanimous Concent Agreement outlined above tonight in the interest of time, truth and justice.

Sincerely, in the pursuit of justice, I am,

ALVIN SYKES,
President,
Emmett Till Justice Campaign, Inc.

U.S. SENATE,
Washington, DC, June 25, 2007.

Senator CHRISTOPHER J. DODD,
Russell Senate Office Building,
Washington, DC.

DEAR CHRIS: As you know, I have not agreed to a unanimous consent request for the Senate to approve S. 535/H.R. 923, not because I disagree with the well intended motives of the legislation, but because it violates the principles I use to evaluate every piece of legislation. I sent you and the other members of the Senate a copy of these principles in February.

Among these principles are: If a bill creates or authorizes a new federal program or activity, it must not duplicate an existing program or activity; and if a bill authorizes new spending, it must be offset by reductions in real spending elsewhere.

Your bill both creates a new government program that duplicates an existing program and authorizes new government spending without offsetting the costs.

The bill authorizes $115 million over 10 years to investigate murders committed before 1970 that have gone unpunished. Perhaps you are unaware, but the Department of Justice initiated an effort over a year ago to do just this.

In February 2006, a full year before you introduced your bill, the U.S. Attorney General and the FBI director announced a partnership with the NAACP, the Southern Poverty Law Center and the National Urban League to investigate unsolved crimes from the civil rights era. Attorney General Alberto Gonzales has pledged that ''The Justice Department is committed to investigating and prosecuting civil-rights era homicides for as long as it takes and as far as the law allows—because there is no statute of limitations on human dignity and justice.''

According to the FBI, ''in February 2006, the FBI enacted an initiative to identify hate crimes that occurred prior to December 1969, and resulted in death.'' The Bureau's 56 field offices have been directed to re-examine their unsolved civil rights cases and determine which ones could still be viable for prosecution. The FBI has partnered with a number of state and local authorities, civic organizations, and community leaders to re-examine old files. Since the initiative began, the FBI has received nearly 100 such referrals. The FBI is continuing to assess each referral for its investigative and legal viability and, given the updated investigative and forensic tools, move forward in investigating these cases.

The Department of Justice is not lacking resources either. At the end of Fiscal Year 2006, the Department had $2.5 billion in unobligated balances, which is unspent money. The Department is expected to have $1.6 billion in unobligated balances at the end of Fiscal Years 2007 and 2008.

Because the FBI is already working on this issue and the Justice Department has billions of unspent dollars, I am unsure why creating new government programs and authorizing more than $100 million in new spending is necessary.

If authorizing more spending for this ongoing effort, however, is necessary, we could pay for it with unspent Department funds or with offsets from existing lower priority spending, as I have proposed doing.

I realize that many members of the Senate do not care about our national debt which is why it is nearly $9 trillion. Most Senators, including you, voted to kill a Sense of Senate resolution stating that Congress has a moral obligation to offset the cost of new Government programs and initiatives. You even voted to fund the infamous ''Bridges to Nowhere'' in Alaska which cost half a billion dollars!

So while you may not concern yourself with our national debt or the impact of adding to it, I do. That it why I was very disappointed that you issued a press statement last week claiming that I am ''delaying this bill's passage under false pretense.''

If you really care about this issue and the economic future of our nation, I would hope that you would actually discuss the matter directly with me instead of holding press conferences and issuing press releases. In fact, my office did make an offer to your staff to find a way to pay for this bill, which was rejected.

If you have any interest in passing this bill in a fiscally responsible manner, please contact me. In the meantime, you can rest assured that the Attorney General and the FBI are already conducting the investigations that your bill seeks to address.

Sincerely,

TOM A. COBURN, M.D.,
U.S. Senator.

U.S. SENATE,
Washington, DC, June 19, 2008.

Senator CHRISTOPHER J. DODD,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR DODD: As you are aware, I am ready to enter into a unanimous consent agreement on S. 535, the Emmett Till Unsolved Civil Rights Crime Act. This weekend marks the anniversary of the murders of three civil rights workers in Mississippi, and I believe it is an opportune time for the Senate to give this bill the vote it deserves. To that end, I have offered four amendments for your consideration. Unfortunately, until you agree to allow me to offer these amendments on the floor, the Senate is prevented from moving to the bill. My hope is that we can resolve this issue soon, so that the Senate may consider S. 535 immediately.

I have always supported the admirable goal of this legislation: namely, to ensure that perpetrators of heinous civil rights cold case crimes are finally brought to justice. I was pleased to learn of the Government's efforts to identify and prosecute these crimes, initiated a full year before your bill was introduced. It remains my desire to see these efforts continue, but I insist that they be done in a fiscally responsible manner.

My concerns with this bill have always involved its cost, and I have worked consistently to identify possible offsets. I made

known these concerns as early as August 2006, when the measure was first considered by the Senate Judiciary Committee. At that time, the bill's sponsor worked with me to find an agreeable offset; however, our proposals were ultimately rejected by an unnamed Senator. In June 2007, I had another opportunity to explain my concerns when the bill again came before the Committee. Additionally, more than three months before I publicly objected to your request for unanimous consent to consider the bill on the floor, I sent you a letter explaining in detail my position on the bill. Finally, in October 2007, I offered an amendment to provide $1.68 million to investigate and prosecute unsolved civil rights crimes by transferring funds from other wasteful programs. That amendment was defeated after a majority of the Senate, including 11 of the bill's sponsors, voted to table it.

Even if I had not been so vocal about this bill in the 109th Congress, the letter I sent to you and all of my Senate colleagues in February 2007 should have left no doubt about my position this year. That letter outlined the principles I use to evaluate legislation, which include: If a bill creates or authorizes a new federal program or activity, it must not duplicate an existing program or activity; and if a bill authorizes new spending it must be offset by reductions in real spending elsewhere.

Because S. 535 both creates a new, duplicative government program and authorizes new government spending without offsetting the costs, you had ample notice—long before you hotlined the bill—that I would object.

Because of the knowledge you had about negotiations that occurred in the previous Congress, my staff's earlier failed efforts to negotiate an offset with your staff, and my own public statements, there has been a consistent understanding of my willingness to allow the full Senate to consider S. 535. My only desire is to be permitted to offer amendments to the bill. I regret that my position has been unfairly—and incorrectly—characterized as an insurmountable obstacle to final passage.

Although my office has not been contacted by yours (or any other bill sponsors) since before the press conference you held to question my intentions on this bill, I have been in frequent contact with the Emmett Till Justice Campaign. That Campaign is undoubtedly the bill's greatest supporter, and the persistent efforts of President Alvin Sykes have outdone any member of the Senate, both in character and enthusiasm. It has been my privilege to work directly with Mr. Sykes, and it is to his credit that so much progress has been made these past few months. We could all stand to learn from his example.

In short, the purpose of this letter is to secure your commitment to a UC agreement allowing me to offer four amendments to S. 535 during floor debate. If you will do so, I am prepared to take up the bill immediately. Especially given the timeliness of this weekend's memorials commemorating the 44th anniversary of the deaths of three civil rights martyrs, I see no reason for further delay.

Sincerely,

TOM A. COBURN, M.D.,
U.S. Senator.

U.S. SENATE,
Washington, DC, June 19, 2008.

Senator HARRY REID,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR REID: The purpose of this letter is to reiterate my willingness to enter into a unanimous consent agreement allowing floor consideration of S. 535, the Emmett Till Unsolved Civil Rights Crime Act. I understand that your staff, along with that of the bill's sponsor, is still considering the four amendments I have proposed as a condition of my consent. My hope is that we can resolve this issue soon, so that the Senate may consider S. 535 immediately.

I have been disappointed in the progress of this bill. Although I made known my specific concerns over the bill's cost as early as August 2006, my intentions have repeatedly been questioned both by members of the media and the Senate. The attacks have been disingenuous, as I have always supported the admirable goal of this legislation: namely, to ensure that perpetrators of heinous civil rights cold case crimes are finally brought to justice. Consistent with the position I have taken toward all legislation authorizing new spending in the 110th Congress, I exercised my right to withhold consent on S. 535.

I have, however, always made known my willingness to work with bill sponsors on identifying needed offsets. Because they have been unwilling to accept my offers and have shown no willingness to otherwise negotiate, the Senate must now consider the bill on the floor. In order for this to happen, we must reach an agreement as to time and amendments. I have put forth my request for consent to offer four amendments and continue to await a response.

Although my office has not been contacted since last year by any Senator seeking to move this bill, I have been in frequent contact with the Emmett Till Justice Campaign. That Campaign is undoubtedly the bill's greatest supporter, and the persistent efforts of President Alvin Sykes have outdone any member of the Senate, both in character and enthusiasm. It has been my privilege to work directly with Mr. Sykes, and it is to his credit that so much progress has been made these past few months. We could all stand to learn from his example.

This weekend marks the 44th anniversary of the murders of three civil rights workers in Mississippi. The occasion makes consideration of this bill especially timely, and I want to make clear that I support prompt consideration. Please give me a response on my request to offer four amendments so that the Senate is able to take up S. 535 as soon as possible.

Thanks,

TOM A. COBURN, M.D.,
U.S. Senator.

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

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

SENATE ACCOMPLISHMENTS

Mr. REID. Mr. President, in 2004, when I was selected by my peers as the Democratic leader, the first public appearance I made following the vote we had, I walked out to the press and said I would rather dance than fight. I still feel that way. I was elected to the Senate because the people of Nevada knew I was a good Democrat but that I always would eagerly reach across the table and find common ground wherever possible. I guess I learned that in the courtroom in working cases. You have to be willing to compromise in the law, as you do in politics. I have a strong conviction, that is true.

There is no better example of that than my relationship with JOHN ENSIGN. JOHN ENSIGN, the junior Senator from Nevada, and I had a bitter race in 1998. He was a Member of Congress. I was a sitting Senator. He ran against me. That was a close race. No one ever thought we would wind up in the Senate together, but as fortune spins, Senator Bryant unexpectedly decided not to run for reelection, and JOHN ENSIGN was able to come to the Senate.

For 8 years, we have worked to develop a relationship that has turned into a strong friendship. JOHN ENSIGN and I, though we disagree on some political issues, never, ever publicly or privately discuss our differences politically.

I mention that because we need in the Senate to work together. Even though we may have different political views on different aspects of Government, we need to work together. It may not be apparent to those who watch the daily skirmishes of the Senate from afar, but I try to approach every issue in this Congress with the same eagerness to find common ground that I do working with Senator ENSIGN.

There have been occasions—not often enough—where Republican colleagues have joined Democrats in the pursuit of progress. When they have chosen that path, we have, together, accomplished some very good things for the American people, even in this work period, which has seen some bitter partisanship. While it will be remembered probably for the Republican obstructionism that has occurred, we can still look and find examples of significant bipartisan compromise.

At a time when we see such interesting things around the country that need so much help, we have been able to pass legislation in one area of great concern: housing. We passed a comprehensive housing bill. The housing crisis has been uprooting families and wreaking havoc in neighborhoods across the country for far too long. It was a struggle to get this bill passed. Never in the history of the country, I am told, has there been a bill that has passed the Congress where we have had seven filibusters on one bill—the same bill—at the same time. We had one filibuster right after the other, seven of them, but we finally got to the finish line on housing. It is a good piece of legislation. Some 8,500 families who receive foreclosure notices every day will not be confronted with that in many instances because of the legislation we passed.

During this work period, we also passed the Medicare doctors fix—the salvation of Medicare is what it was—and we did that by overriding the senseless veto by the President of the United States. We were only able to do that because right down here stood Senator TED KENNEDY, a man who should not have been here. He was not supposed to be flying. He wasn't supposed to be around crowds, and of course there were lots of crowds that

were here—everyone wanted to be around him—and he stood here and cast the deciding vote that broke the impasse. We had 60 votes. After we got 60 votes, the Republicans in good will joined and allowed us to save Medicare. It took the courage of TED KENNEDY, rising from his sick bed against doctors' orders, to cast the deciding vote. Because he did, and enough Republicans joined with us, we renewed the long-held American promise that the elderly, the disabled and the orphans and widows will receive the health care they need.

We also passed, during this work period, a bill that is a test to America's charity and moral authority in the world, the so-called PEPFAR bill. This legislation provides an unprecedented level of support for the fight against AIDS in Africa. It is not often I have occasion to praise the President, but he did a good job on this, and I commend him for helping us. I am glad that even after we had struggles for months at a time, Senate Republicans joined with the President and Senate Democrats to choose to end their obstruction and allow us to pass that legislation.

Late yesterday, we wrapped up work on an important piece of legislation. We did it at the end of this work period. In fact, we did it on two important pieces of legislation: consumer product safety and the higher education bill, both very important pieces of legislation. At a time when parents are rightly more concerned than ever about the safety of the toys they buy for their children, the consumer product safety legislation gives parents and all consumers new assurance that the goods we buy are fully tested and approved for safe use. That applies to the stereotype, which is the toys the children use in America, but it is far broader than that. With rare exception, it is everything we consume in America today now will be safe.

The Higher Education Act had not been reauthorized in some 10 years until last night. Of course, it was long overdue, but since we passed it, millions of bright young American minds will have the opportunity to unlock the doors of opportunity a college education provides.

Our country will be stronger for every one of the bills we passed this work period—every one of them. I wish we had passed a lot more. Those we did are important. I am glad we did it. As with any legislation, when you pass a bill, there are lots of accolades to be passed around. When you don't pass a bill, there is a lot of blame to go around.

I feel a lot of disappointment, though, when I think back upon this work period and wonder what might have been, what might we have accomplished if our Republican colleagues had decided to dance with us more often than fight. We could have gone a long way toward solving America's energy crisis. Yesterday was a microcosm for why the Senate failed to do so. Democrats came to the floor to offer seven different energy initiatives. Our plan would tackle every piece of the energy puzzle: Increasing supply with more domestic production, meaning increasing supply with more American production; reducing demand by investing in clean and renewable alternatives; going after those who keep oil prices artificially high for their own financial gain; and helping those in need pay their skyrocketing heating bills.

Earlier today, a group of 10 Senators—5 Republicans, 5 Democrats—indicated they had done some work to come up with a proposal that they think would help the energy crisis. I have been kept informed of how this has been progressing, and I am glad they have worked on what they did. They have worked very hard. There are many good ideas. Do I agree with everything they did? No, I don't agree with everything, but even the 10 don't agree with everything in the package.

I look forward to working with them. We are going to work with this group in a number of different ways. First of all, the information we got from them is important. I am going to hold a summit in Las Vegas on August 19—an energy summit, a clean energy summit. President Clinton will be there, Mayor Bloomberg, T. Boone Pickens, the Governors of Utah, Arizona, Colorado. We have people from the private sector, the public sector coming to talk about what we can do to wean ourselves from fossil fuel.

Also, the week we get back in September, we are going to have an energy summit of Democrats, a bipartisan energy summit, to see if there is any way we can work together to move forward—move forward on things that are so important to this country, such as having multiple year energy tax credits so we can wean ourselves from the fossil fuels and look to the Sun, the wind, and geothermal for our energy. I certainly hope we can do that.

Republicans have said no to every proposal we have made. Because they did, the American people will have to wait for short- and long-term solutions to the energy crisis. That truly is unfortunate.

With more Republican cooperation, we could have passed mental health parity. That is so important. It is a bipartisan bill to ensure equal access to health care for people with mental illness. We were prevented from doing that.

With more Republican cooperation, we could have passed a package of 13 bipartisan bills that Republicans blocked. That package includes the Emmett Till unsolved crimes bill which would help heal old wounds and provide the Department of Justice and the FBI tools needed to effectively investigate and possibly solve civil rights-era murders.

The Runaway and Homeless Youth Act would provide grants for health care, education and workforce programs and housing programs for runaway and homeless youth.

The combating child exploitation bill would provide grants to train law enforcement to use technology to track individuals who trade in child pornography and establish an Internet crimes against children task force.

The Christopher and Dana Reeve Paralysis Act would enhance cooperation in research, rehabilitation, and quality of life with people who suffer from paralysis.

LIHEAP, a bill that was called Cool In Summer, Warm In Winter Act to provide relief to the aged, the disabled, and the poor so they can have energy assistance to cool their homes in summertime, heat their homes in the wintertime—the Republicans turned it down.

We were amazed that Republicans said no to these bills and many others, but they did, and that is unfortunate.

The list of critical priorities we could have done something about with even a small degree of Republican cooperation is no longer available to us now. It would have been nice if we could have done the list. The list of things we copuld have done is far longer than I can recite today, but I say that because Republicans chose the path of obstruction. The good we did is far outweighed by the good that could have been. Of course, that is disappointing to all of us.

When you strip away the differences between the McCain Republican approach to energy and the Democratic approach to high gas prices, you find the Republican policy is the Exxon policy, and our policy is an energy policy. The Republicans have a one-word policy: drill. That is the Exxon policy. Our approach, the Democratic approach is No. 1, drill where appropriate, but also develop competition for oil by encouraging solar, wind, geothermal. The Republicans say no because it will lower oil prices, and that is not what Exxon wants. Our policy is to increase the supply now by releasing oil from the Strategic Petroleum Reserve. The Republicans say no because it will lower oil prices and that is not what Exxon wants.

No. 3, we say go after financial speculators. The Republicans say no because that would lower the price of oil, and that is not what Exxon wants.

No. 4, we say invest in new car battery technology. The Republicans say no because that will lower oil prices, and that is not what Exxon wants.

The Republicans' affection for Exxon explains why they say no to even allowing us to debate issues that are so important. No, no, no is what Exxon wants—to keep oil prices high.

That is too bad.

When we return in September, we need to get right back to work. We have just a few weeks to get a lot done. Perhaps by then, though, the political winds will blow in a different direction, and the Republicans will return with a new willingness to work together. If they do, we can work out a bipartisan plan on energy that meets our country's near- and long-term needs.

We can send the American people a new economic stimulus bill to help families make ends meet and strengthen an economy that has now lost jobs every month this year.

We can pass the Defense authorization bill that provides our military with the funds they need to keep our country safe. It takes care of those who serve us bravely with an across-the-board 3.9-percent military pay raise and major investments in the physical safety and mental health of our troops, not the least of which is attempting to rebuild the military which is in a state of distress because of the Iraq war.

We can pass a Military Construction/Veterans Affairs appropriations bill to maintain and upgrade military facilities, build better military family housing, and ensure the care our veterans deserve.

We can pass a Defense appropriations bill to keep our Armed Forces prepared for combat and peacetime missions, relieve the strain of constant 12- and now 15-month deployments, and support highly classified initiatives in the fight against terrorism.

With the Presidential election drawing near, our time will be short. But with new cooperation from our Republican colleagues, we can do all this—and pass several other important bipartisan bills already passed by the House of Representatives.

So I wish all my colleagues well in their August travels. I know we are all weary from the long, difficult work period.

I also know the fights that await our return won't be easy. I hope a month back home will give our Republican colleagues a new appreciation for how America needs badly the changes they have blocked.

Our hands remain outstretched. Our eagerness to seek common ground remains as strong as ever. We will fight if we must, but we would much rather dance.

I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

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

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

UNANIMOUS CONSENT AGREEMENT—S. RES. 624

Mr. REID. Mr. President, I ask unanimous consent that the Senate record reflect the Senate adoption of Calendar No. 924, S. Res. 624, as reported by committee.

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

50TH ANNIVERSARY OF THE CROSSING OF THE NORTH POLE BY THE USS ''NAUTILUS''

Mr. DODD. Mr. President, I rise today, joined by my colleagues Senators LIEBERMAN, REED, and WHITEHOUSE, to mark the 50th anniversary of a momentous occasion in our Nation's maritime history, an occasion that truly launched the American Navy into the Nuclear Age. On August 3, 1958, the USS *Nautilus*, the world's first nuclear powered submarine, became the first vessel to travel under the North Pole. The intrepid crewmen of the *Nautilus* received a Presidential Unit Citation for their service, and Operation Sunshine, as it was called, provided a powerful boost to American morale following the Soviet launch of Sputnik. Today, we mark this important milestone with a resolution honoring the *Nautilus*'s historic feat.

The USS *Nautilus*'s Arctic voyage was a remarkable feat of American naval engineering, demonstrating the evolution of submarines from slow underwater ships to warships that could submerge for many weeks and travel through varied depths and conditions, maintaining travel speeds of 20–25 knots. Submarines, as was proven that day, would pursue unconventional courses to achieve incredible results, in this case, traveling a much shorter distance than was thought possible, to reach strategically important destinations on the other side of the globe.

But most important, it marked a major milestone for our nuclear Navy, which would lead to other developments, such as submarines powered by single pressurized water reactors, and an aircraft carrier, USS *Enterprise*, powered by eight reactor units in 1960.

While the *Nautilus*'s successful voyage was an inspiration to all America, it serves a particularly important point of pride to our submariners, as well as the engineers and shipbuilders of the Electric Boat Division of General Dynamics, who have built our Nation's nuclear submarines in Connecticut for more than four decades. As a young boy, I attended the launch of the USS *Nautilus* in Groton, CT; and had the honor to witness my late mother christening the USS *Stimson*. My first cousin, Bill McAree, was one of the chosen few to serve in the nuclear submarine force under Admiral Rickover, and for 34 years, I have had the distinct pleasure of representing the home State of our Nation's premier undersea warfare facilities, including Naval Submarine Base New London.

As we commemorate the 50th anniversary of this important voyage, we must also look forward to the future of American naval power. As nations around the world continue to enlarge their own submarine fleets, the U.S. ability to travel freely and swiftly beneath the waves represents a critically important component of U.S. seapower. Today, our submarine fleet is contributing invaluable surveillance and reconnaissance to our warfighters, and providing an important platform for operations in what the Navy calls ''the littorals,'' or coastal areas. Our military has no more stealthy means for delivering power than the submarine, carrying Navy SEAL teams to enemy territory undetected, or traveling to specific locations to launch cruise missiles. Submarines are not merely weapons of war, they are tools of statecraft, providing critical intelligence to policymakers and serving as a critical deterrent to promote stability throughout the globe. And it is submarines' demonstrated ability to traverse the world undetected, at any point in the ocean, even the North Pole, that makes the work of our silent service, our submariners, so critically important to our national security.

As we look back on the first 50 years of America's nuclear submarine program, the United States must be ready to continue the great legacy of the USS *Nautilus*, its crewmen, shipwrights, and designers, and remain in the forefront of submarine development.

COSPONSORSHIP—S. 3406

Mr. HATCH. Mr. President, through an oversight of our two offices we neglected to add Senator DOLE as an original cosponsor to this act when we introduced it last night. Senator DOLE is a leader on disability issues and should be commended for her and her husband's commitment to individuals with disabilities.

Mr. HARKIN. Mr. President, I want to apologize to the Senator from North Carolina for this oversight. Our legislation, S. 3406, enjoys broad support among advocates for individuals with disabilities, and I want everyone in that community to know that Senator DOLE intended to be an original cosponsor of this measure. We look forward to working closely with her and the rest of our colleagues to pass this measure when the Senate reconvenes in September.

RETIREMENT OF GENERAL RICHARD A. CODY

Mr. LEAHY. I rise to commend GEN Richard A. Cody, the Vice Chief of Staff of the Army, on his retirement. General Cody is one of the Nation's finest military officers, and, with a career that spans over 36 years in the Army, he leaves behind a stronger, more experienced, and more professional fighting force. Vermont is proud to call General Cody a native, and there is little doubt that his time growing up in our State capital, Montpelier, instilled in him a deep sense of loyalty and public service.

From the day of his commissioning to his last formal day in the service, General Cody made an indelible mark as an aviator, not just as an officer who could wield an Apache or Blackhawk with impressive precision and skill, but as a leader who inspired other aviators and maintainers to do their best. He competently led such prestigious and capable aviation units as the 160th Special Operations Regiment and the 101st Airborne Division. In the early stages of the first gulf war, he headed up one of the earliest and strategically critical aerial attacks, paving the way for subsequent air and ground forces. He amassed an impressive 5,000 hours of flight time.

It was that quality to inspire and to lead through example that elevated General Cody to the higher ranks of the U.S. Army. His service as the Vice Chief of Staff has coincided with ongoing wars in Iraq and Afghanistan, and he has helped the Army restructure and reequip itself for that challenging undertaking. He has always been open about the Army's needs, clearly informing the service's civilian leaders, the media, and Congress about the tools necessary to carry out its missions. He has been involved in some vigorous debates in the Pentagon, out of which emerged sensible approaches to activation and equipping of the Reserves, including the National Guard. He always has in mind his view—built through that experience and knowledge—of what is best for the Army and the country. He is an articulate spokesperson and fierce advocate.

General Cody has always kept one foot in Vermont where his family has such strong roots, particularly around Montpelier where he was born and raised. Few in the State have not purchased a car at Cody Chevrolet, which is owned and operated by the General's family. He and his lovely wife Vicki have two proud sons, Capt. Clint Cody and Capt. Tyler Cody, both Apache pilots in the Army. His immediate family has had the chance to spend considerable time in the State, experiencing the deep patriotism that runs through the Green Mountains and the Champlain Valley. It was only fitting that Norwich University, the Nation's oldest military academy, recently honored General Cody.

General Cody has been open about the challenges that the Army faces. His forthright manner is matched only by the quiet energy he brings to tackling problems aggressively. He is the model Army officer, a doer as much as a thinker, a loyalist as much as someone speaking straight. As he retires, I know there are many in the Army, officers and enlisted, who will continue to strive to replicate the path that he blazed with such dynamic energy. I know he will continue to be engaged with the Army, and, for that—and, above all, that incredible 36 years of service—Vermont and the whole United States are grateful.

MEDICAL DEVICE SAFETY ACT

Mr. LEAHY. Mr. President, I am proud to join Senator KENNEDY and other Senators in the introduction of this legislation. The bill that we introduced yesterday will correct a decision of the Supreme Court that misconstrued the intent of Congress and cut off access to our Nation's courts for citizens injured or killed by defective medical devices.

The Senate Judiciary Committee held a hearing on June 11 to examine the way in which the Supreme Court's decisions in the areas of retirement benefits and consumer product safety have consistently trended against the rights of consumers and in favor of big business. In many cases that have profound effects on the lives of ordinary Americans, the Court has either ignored the intent of Congress, or sided with a Federal agency's flawed interpretation of a congressional statute's preemptive froce to disadvantage consumers.

It is regrettable that an anonymous Republican Senator objected on procedural grounds to the committee completing that hearing. And it is disappointing that the same party that engages in so much partisan rhetoric complaining about activist judges refuses to hear about the judicial activism when it comes from the judges whose activism they embrace as sound judicial philosophy. The impact of the decisions that were the focus of that hearing are being felt by Americans today, whether they are prohibited from seeking redress in the courts for an injury caused by a defective product, or left without remedies to enforce rights granted by Congress relating to nondiscrimination, or retirement and health care benefits.

The bill we introduce today is an important step to correcting the Supreme Court's erroneous reading of Congress' intent in enacting the medical device amendments of 1976. Where the Court reaches to the extent it did in the Riegel decision to find Federal preemption contrary to what Congress intended, Congress is compelled to act. This legislation will make explicit that the preemption clause in the medical device amendments that the Court relied upon does not, and never was intended to preempt the common law claims of consumers injured by a federally approved medical device.

As I noted in the Judiciary Committee's recent hearing, many of the Court's decisions that have the most far reaching impact on Americans' wallets, retirement and health benefits, or access to justice, are the least publicized. But Americans should be deeply concerned when decisions of the Supreme Court override the policy judgments made by their elected representatives in Congress and negatively affect their day-to-day lives in significant ways. The extraordinary power to preempt State law and regulation lies with Congress alone. And as the Supreme Court has said on many occasions, the fundamental inquiry into whether a Federal statute preempts State law is the intent of Congress. I hope the introduction of this legislation sends the strong signal that some Senators intend to hold the Court to its own often-repeated pronouncements about this important principle.

THE FEDERAL AVIATION ADMINISTRATION EMPLOYEE RETENTION ACT

Mr. INHOFE. Mr. President, I was pleased to join Senator LAUTENBERG yesterday in introducing S. 3416, The Federal Aviation Administration Employee Retention Act. I am supporting Senator LAUTENBERG in his efforts to correct what I believe is a very unfair process imposed upon employees of the Federal Aviation Administration, FAA, by Congress.

Essentially, S. 3416 will correct the collective bargaining process Congress established for FAA employees in the FAA Reauthorization Act of 1996—Public Law 104–264—in which we inserted ourselves as arbitrators in labor disputes. Under the 1996 act, if the FAA and the union with whom they are in negotiation can not reach an agreement, then Congress has 60 days to intervene and if we do not, the FAA is able to impose its terms on the employees. Mr. President, this is not fair, it has not worked and it is time that we correct it.

In addition to the widely published dispute between the FAA and the National Air Traffic Controllers Association, NATCA, the Professional Aviation Safety Specialists, PASS, also have been unable to negotiate a new contract with the FAA. Furthermore, in my State of Oklahoma, there has been an 8-year disagreement between the FAA and the FAA Academy Instructors represented by the Professional Association of Aeronautical Center Employees, PAACE. It is my understanding from PAACE that FAA has basically refused to come to the bargaining table, which has resulted in year to year extensions of an 8-year-old contract. This is not right.

The very reasonable procedure established by S. 3416 will provide both sides in a labor dispute with a means to resolve disagreements by allowing FAA employees the same collective bargaining protections that employees covered under the National Labor Relations Board currently have. The bill provides the option of resolving disputes through the Federal Mediation and Conciliation Service or through mutual agreement on an alternative procedure. If no agreement is reached, then matters of disagreements will be presented to the Federal Services Impasses Panel for binding arbitration.

Finally, the bill would require both sides go back to the negotiating table for any ''personnel management system implemented'' by the FAA Administrator on or after July 10, 2005. In

other words, contract negotiations between FAA, NATCA and PASS are restarted with a 45-day deadline. If no agreement is reached, then there is an additional 90 days for binding arbitration.

As a pilot I am well acquainted with the exceptional work done by the employees of the FAA and I know firsthand that our aviation system is only as good as these employees. They deserve the right to bargain in good faith on their employment contracts. This bill will give them that opportunity.

Thank you, Senator LAUTENBERG, for introducing this bill, and I hope we get an opportunity to debate it very soon.

REMEMBERING SENATOR JESSE HELMS

Mr. ENZI. Mr. President, I join with my colleagues in the Senate and the House, and with the people whose lives he touched all across the Nation, in saying how sorry I was to learn of the passing of Jesse Helms on July 4. He was a remarkable man, and he has left his mark on the United States that he loved so very much and the State of North Carolina that he served with great pride. He will not be forgotten.

Jesse Helms was an American in every sense of the word—one who was firmly and staunchly dedicated to the principles upon which our country was founded. Those principles guided him through his life and helped him to make every difficult decision that confronted him in his 86 years of life.

Jesse Helms was an established force in the Senate by the time I arrived. As a freshman Senator I knew I had a lot to learn and I was able to learn a lot from him as we served together and worked on several issues that meant a great deal to us both. We didn't always agree, but I always found him to be a man of his word who said what he meant and meant what he said. You always knew where you stood with him and when he said ''Yes'' you knew that you could count on him to do what he said he would.

Many of us come to Washington hoping to change Washington. Then, with the passage of time, we find that instead of changing Washington, Washington has changed us. How we are changed says a lot about us and our commitment to the principles and values that motivated us to run for the Senate in the first place.

That kind of change is only natural and, for many of us, the changes that occur help us to see other viewpoints and perspectives and make it possible for us to work with Members on both sides of the aisle so we can achieve common goals and work for the best interests of the United States and the American people.

Like so many of us, Jesse Helms was changed by his experience in the Senate. One of the most notable examples was the President's foreign AIDS relief package we worked on together.

For years Jesse was opposed to providing any assistance to countries fighting the AIDS epidemic. Some thought he would always oppose any kind of relief. Then, Bono, who is a powerful advocate for the cause, made an appointment to see Jesse Helms so he could share the human side of the problem with him.

I guess no one had been able to put a human face on the AIDS epidemic for him before. However Bono was able to do it, he was able to touch Jesse's heart and convince him that the need was real—and the right thing to do. In response, Jesse was big enough to admit that he had been wrong. After Bono's presentation, Jesse decided to work on a proposal that would provide the needed funds to fight AIDS in Africa. The proposal was passed and signed into law, and thanks in part to his support, countless lives were saved. It is no coincidence that the reauthorization of this legislation that he worked so hard to pass was recently enacted into law by President Bush. It is a part of his legacy that will continue on after him and make a difference all over the world for many years to come.

That is but one facet of his character, and one we are all familiar with. And, now that he has been taken from us, we will all take with us many more memories that come from our service with Jesse Helms in the Senate.

A lot of what we remember about Jesse Helms and his service in the Senate would surprise those who only knew him by reputation because people thought he was a tough guy. But when you met him, you quickly came to see that he was a friendly person. He enjoyed greeting the tourists he met in the Halls and he made them all feel welcome because he always had a kind word for everyone he met. Those who worked here in the Capitol liked him because he treated them all with kindness and respect.

At the top of Jesse's list were those who work with us to help the House and Senate function as it should—especially the pages. I don't think Jesse Helms ever missed a chance to say ''Thank you!'' to the pages for their service to the Congress. That was just one of the ways that Jesse honored the Senate's traditions and respected the office he was elected to hold.

I remember a story he told me about his first Senate race. The campaign was in full swing, but Jesse's numbers didn't look too good. Then one day he ran into a fellow Mason who handed him a Masonic lapel pin. ''Here,'' he said. ''Wear this during your campaign and I guarantee you that you will win.''

He took his friend's advice and wore the pin every day. Then, when the votes were counted, Jesse was the newly elected Senator from North Carolina.

He told me that story while we were in the cloakroom and I was watching him put a new back on the pin that now showed a lot of use. I told him that I was a Mason, too. As he put the pin back on his lapel, he told me that he had worn that pin every day since his friend gave it to him during that first Senate campaign.

As I came to know him, I saw that Jesse and I shared a great fondness and appreciation for the youth organizations that are recognized by the Congress. He knew that they were teaching our kids things they weren't going to be getting any other way. He knew that these groups were helping our kids learn how to be good citizens and good students and to stand up for the things they believed in. He knew that they were helping to prepare our young people for the challenges they would face in school and later, in life.

One organization we both worked to support was the Boy Scouts. He was a strong supporter of Scouting and he stood up for them whenever they were unfairly criticized or attacked. His response to each attack was to craft a bill that protected the promotion of volunteerism, values and faith to ensure those valuable lessons would continue to be taught to the Scouts.

That is just one example of Jesse's commitment to the values that meant so very much to him. That is why he was able to get a lot of things done over the years. His success was based on his strong foundation of values and beliefs that he would stand fast on and that was enough for him to win on most occasions. Watching him in action on the floor or in committee taught me that conviction counts, especially when you are firm and comfortable in what you believe.

Jesse was a kind, soft spoken, effective, persistent and successful individual. He paid attention to people and they responded to him—in North Carolina and across the country. Another of his great political secrets was his understanding that a problem always appears bigger if it is your own. That's why the people of his State sent him back to the Senate for five terms. He listened to the people of North Carolina, he understood them, and he made their problems his own.

Now that the last chapter of his life has been written, Jesse Helms' record speaks for itself. It reflects the fact that he was never concerned with being popular or taking positions because they mirrored the results of the latest poll. His focus was always on doing what was right—because it was the right thing to do. I think he owes his perspective on life to some advice his father gave him that helped to shape his character and point him toward his destiny. Jesse would often share his father's words with others, ''The Lord does not require you to win, but he does require you to try.''

Jesse never forgot what his father told him. In fact, he lived those words by putting them into practice every day. No matter the odds or how impossible the situation was, Jesse stayed true to the life lesson his father taught him many years ago.

Now that he has been taken from us, it will be for others to judge his place

in history and the impact his life had on the Nation. Whatever is decided, for me and for so many others, the record will show that Jesse Helms didn't always win, but he never let the fear of losing keep him from fighting for a cause he believed in. For Jesse Helms, the glory came not from victory, but from giving all he had in a noble effort in support of a worthy cause.

IDAHOANS SPEAK OUT ON HIGH ENERGY PRICES

Mr. CRAPO. Mr. President, in mid-June, I asked Idahoans to share with me how high energy prices are affecting their lives, and they responded by the hundreds. The stories, numbering over 1,000, are heartbreaking and touching. To respect their efforts, I am submitting every e-mail sent to me through energy_prices@crapo.senate.gov to the CONGRESSIONAL RECORD. This is not an issue that will be easily resolved, but it is one that deserves immediate and serious attention, and Idahoans deserve to be heard. Their stories not only detail their struggles to meet everyday expenses, but also have suggestions and recommendations as to what Congress can do now to tackle this problem and find solutions that last beyond today. I ask unanimous consent to have today's letters printed in the RECORD.

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

I am a firm believer that Americans need to find alternatives to foreign oil and reliance on fossil fuels. But, instead of more domestic production, I believe Americans need to diversify in their approach, and not simply rely on alternative places to find oil and fossil fuels. Instead, the focus should be upon ingenuity, for example instead of water producing electricity, why not windmills, or wind energy? I grew up seeing fields of windmills on drives from Los Angeles to Palm Springs. Also, Boise is one of the most bicycle friendly cities, although you'd never know it by commuting on our poor streets that have completely ineffective bicycle commuting lanes. Instead of oil and gasoline, encourage people to bike to work by offering an expanded commuter tax credit. And, we have absolutely NO public transportation system. Why not focus on a systematic expansion of public transportation? As for home electricity and the like, why not an expanded tax credit on ''going green?'' I learned about the energy certification for your home when my family was building our new house, but it costs almost $3,000 to get your home tested to qualify for the tax credit, which is not worth it. Plus, energy efficient appliances and technology generally costs more. Why isn't such technology more cost effective? Why are we not encouraged to do more? If green technology costs more, in order to encourage its use and mainstream applications, there has to be financial encouragement to install it in order to offset the high up-front costs.

As for transportation, this summer, I cannot afford to buy a new car, even though I am a solid middle class citizen. Food prices have skyrocketed for my family, I have to pay for daycare for the summer, and I own a 10-year-old gas guzzling SUV, which is probably not worth much on a trade in anymore what with the high gas prices. But I live only 2 miles from work. The lack of public transportation has forced me to consider a different alternative, and that is biking to work. I am lucky because my employer (the federal government, by the way) is required to provide lockers and shower facilities on site, so I can bike in, shower, and go to work. I have encouraged my children to join me, and they are biking with me to summer camp as well. Unfortunately, this is the first summer I have been able to do this, because transporting my children to daycare was just about impossible without a car before this. Yet, most other nations have alternative transportation, and a totally different day care system, and because cycling is the norm it is much safer. I think the problem is deeper than just gas or oil prices. It is our own selfishness that has gotten us here, because we have never been forced to consider the alternatives.

I hope that a comprehensive approach to this problem will be focused on, instead of just a quick financial fix for segments of the population. It is hurting us all. And until Congress and our nation focuses on the more widespread issues, our approach to everyday life won't change. Because it is not just energy costs . . . it is more than that, and God forbid Congress forgets about the other problems, such as health care, child care, education, affordable housing, and the lack of appropriate services for those that are now falling behind because wages cannot keep up.

KIRSTEN.

As a kid, Congress said they were solving an 'energy-crisis,' and by the time I could drive, cars would get 100 mpg, jet-packs would be available by 1975, there would be a resort at ''LunaCity'' on the Moon by 1980, Mars by 1990, and Alpha Centauri by 2000.

Today, Congress says they are 'solving' an 'energy-crisis,' and if I just 'believe' in them, I will be 'delivered' from the valleys of shadows and death.

Please note, Mr. Karzai's diversion of cross-border Pakistani Talibani 'marauding-hoards,' and the House of Saud's past-due promises to pump more oil, while Congress spins their wheels-in-wheels-in-wheels of deceptions, is not 'solving' anything. Use of strategic reserves at this critical juncture is probably not a wise move, although I wish for the Clinton days of $0.89 cent/gal diesel. Your entire branch of government is completely out of control. THAT is the solution.

CLAYTON, *Priest River*.

I have 4 teenage boys that are big and are growing fast. The increased energy costs have significantly increased the cost of almost all goods. Most noticeably, our food bill has nearly doubled since the first of the year. We are desperately looking for any means to economize.

Although I am able to ride my bike to work and have taken several steps to minimize our fuel bills, we are feeling the crunch of increased petroleum costs. We have aging parents that are in need of more of our attention. Unfortunately, our parents are over 400 miles away, so it costs us over $180 dollars to make the trip to see them and to try to help them take care of their homes and properties.

It makes sense to me that the rising cost of fuel would affect our economy. My salary is not increasing, and with the cost of goods and fuel increasing, we are only able to make ends meet by not buying other things. This trend would seem to hurt other businesses that are depending on people like me to be buying their goods.

I am an Electrical Engineer and I am very disturbed over the push to skip nuclear power and move solely to renewable energy. The wind and solar power options available today will not meet our energy needs. Unfortunately, our country was behind in providing the needed supply of energy when the recent acceleration in energy costs began. I do believe that renewable technologies like wind and solar can play an important role in meeting future energy needs, but I think we need to provide a plan that sees these technologies mature and become less expensive through manufacturing advances. I believe we need to develop nuclear and clean-burning coal as stop-gap measures to allow the renewable technologies to advance to the point where they are more cost effective. If we try to move strictly to renewable energy sources, I am concerned that we will face energy shortages, or will further reduce consumer spending power by having to put our money in the more expensive renewable energy sources.

GENE.

This is one subject I completely agree with you on. The U.S. Congress has to act to allow drilling where we know we have oil reserves. The stupidest statement I have ever heard from Congress, which I have recently heard repeatedly, is that we cannot solve our energy crisis by drilling. That is about like saying we cannot solve a food shortage by planting more crops!

Last month I spent over $760 on gasoline and my wife spent several hundred [dollars] also. We do not have the option of using public transportation and we need larger vehicles on our farms. As a farmer, while currently enjoying good prices, we are seeing a big chunk of the increased income eaten up in fuel costs. If crop prices were to return to ''normal'' levels, it would devastate Idaho farms. Thanks for your help on this important issue.

KEITH, *Blackfoot*.

Honestly, I do not want to tell a story about how I am affected by high energy prices—it is obvious. I think the last thing we need is to talk about it more. The ways to lower prices are out there and the Congress knows it. Just get it done. Just as communism caused us to fight with all our American might at home and around the world to preserve our nation, so also must we view our nation's energy as a cause worth pursuing with all our sweat and synapses. If not, our nation will lose the strength, the hope, the dream that has raised so many generations of Americans before.

Please, please do not talk anymore. Do something. You should receive many reply emails. Several will have great ideas (wind, solar, hydrogen, nuclear, oil). Pick the ideas with the most promise and encourage their production and then stay out of those geniuses' way and watch what the American people can do.

JOSH, *Idaho Falls*.

Too many people have this backwards. Most agree there is a limited amount of oil we can get. We need to save our reserves and use up the foreign oil first. Then when the foreign oil is nearly used up we will still have some to aid in the transition to other sources or energy. Save our oil and use up foreign oil first.

The last one standing with some oil wins.

CARL.

I am an Idaho Farmer. I have been deeply concerned about the prices of fuel in Idaho. The price of fuel has affected the cost of almost every aspect of farming from fertilizer to chemicals, tires, etc. The list goes on and on. The price of labor has all gone up because people cannot afford to work for less. My generation might be the last generation of farmers in Idaho. I personally have two sons

and have encouraged them to find another way to make a living because the cost of starting up and the cost of farming are too prohibitive. There is no way that they can make it with the price of fuels. I guess my story is that the family farm is on its way out of Idaho. The families of America hold this nation together. If you break up the family, the United States will break as well. I guess the only way to get Congress to do anything is to wait for their stomachs to growl. Otherwise, if you eat you are involved in farming. No farms—no food!

LORN.

First, thank you for some leadership on this issue. I will be brief. My family and I just completed an auto trip to Montana and back. Fuel costs were averaging $4.05/gallon of regular. The costs of travel will have a significant effect on my family's recreation this year. We also have a small airplane and AV gas is now $6.30 in our area meaning it now costs $63.00 per hour just in fuel costs to fly the airplane my family and I have enjoyed for years. Unfortunately at these prices our boating costs have risen considerably. Grocery costs have risen. Freight costs are going up along with the airfares for the airlines. The selling price for my airplane and boat if I were to sell them are going down. Many families are selling their RVs because they just cannot afford to recreate like they used to.

Finally I have just retired after 31 years in my company. I have a small pension and have had to cut drastically on my anticipated lifestyle already. I had planned to teach flying lessons as a part-time job but the marketability of flight instruction may very well be priced out of the range of many prospective students.

I feel that the government and Congress have had since 1972 to get a grip on this problem and have done nothing except band-aid and pass the buck. We need to get real, drill whenever and wherever we need to immediately and reverse our current bad policy on nuclear energy. We cannot remain forever relying on petroleum but we need cogent policies to help us get to the next best thing for our energy needs.

We also need to put a cap on the speculating by the commodity traders that are driving up the prices daily. And, although I hate to say it, maybe we need to regulate a few more of those items that affect us working people so much on a daily basis, like utilities, phone service, cable costs and fuel.

MIKE, *Pocatello*.

Thank you for providing this forum to express my views about energy prices in our fine state, their impact, and solutions. I unequivocally believe that our present asset-depleting condition is a direct result of 30-plus years of disastrous, foolhardy legislation from Congress that has made it impossible for America's brilliant innovators to make us energy independent. Yes, the price of gas is leading my family to really think about every trip in the car, but I do not want a band-aid government solution to replace the free market. The following is what I believe is critical to our national security, as well as comfort at the pump:

(1) Deregulate and allow drilling in all its forms everywhere, right now! Admit to decades of failed, self-destructive policy and move on.

(2) Encourage, through generous incentives, the building of refineries everywhere, right now!

(3) Remove all legislative obstacles to the building of nuclear plants and encourage, through generous incentives, their construction everywhere, right now!

Senator, what is frightening and of tremendous concern for myself and many citizens, perhaps yourself as well, is our global competitors, friend and foe alike, are rapidly growing and tapping into their own energy sources, nuclear and petroleum, and America has become weak and dependent. It is sickening and dangerous. This must be reversed, immediately! Congress needs to remember that American interests, both short and long-term, must at all times be placed above those of other countries or the so-called ''international community.'' There is no one else on the globe looking out for us. Senator, you need to do it. Thank you for your excellent work on behalf of your constituents.

MICHAEL, *Post Falls*.

My husband and I live in the country outside of Rexburg and have to drive almost ten miles to get to town. My husband is a full-time college student and works part-time. I also have a part-time job and it is a struggle to fill up our gas tanks every few weeks. Gas prices are shooting up but our incomes are as small as ever.

My father is a farmer and has tractors, trucks, and other machinery to fuel. He has no choice. He needs those machines to do his work, but it is just so expensive.

Something needs to be done about the cost of fuel and energy and it needs to be done now! We need to stop relying on other countries to fuel our cars. We need to start using more alternative fuel and energy sources. We have the means but do we have the motivation? I hope so.

REGENCY, *Rexburg*.

You are correct regarding the adverse affect that the rising cost of fuel has on the lives of all Americans including the citizens of Idaho.

We must drill for oil on American soil and pump from the wells we have capped, mine clean coal in Utah and elsewhere, use wind for energy where it pays, create more fuel efficient engines, engineer better batteries for electric cars, make affordable solar power options available where possible . . . and thank God for the clean source of power we get from our hydro-electric dams.

We are a nation that was blessed by God with an abundance of natural resources. However, if we don't develop them and use what we have been provided with, and yet continue to complain, we are fools.

The cost of fuel is showing its effect on our small business in that orders are down and costs are up. It now costs double what it did two years ago to get to and from work, purchase some of our materials, and pick up those materials from our suppliers. We have tried not to pass the rising cost of shipping on to our customers as it is already high and keeps some people from purchasing our product. Therefore, we take a cut in our normal profit and that means less money in our pockets to spend on other products and services that we would like to have and use locally.

I work in town and there is absolutely no public transportation available in this area. It is a small town in the mountains of Idaho and I drive seven miles each way to work every day. Many workers must drive ten to twenty miles each way and it is eating into their family budgets. Now the price of fuel is taking its toll on food costs. Prices are getting ridiculously high and I cannot imagine trying to feed a family these days. I believe in less government. But there is something wrong with these high fuel costs; they are unjustified and the government does need to get to the bottom of it and put a stop to it now.

The last thing that should be done is to put a higher tax on our fuel and energy costs. The people who suffer the most from this problem are our elderly population (and disabled) who are on fixed incomes. Now they must choose whether to fill the oil tank (pay the electric bill) or to eat . . . we have gone sadly astray from the United States of America in which I grew up, and we had better get back to our roots of belief and our Constitution.

I believe in helping others and it is a fact that Americans are the most generous citizens on earth, giving to others even in other nations freely on a regular basis; no nation on earth gives more. However, as a country we must stop sending money to other countries in the world that have problems or disasters and start taking care of our own problems, infrastructure, and disasters. I do not believe in socialism, but we should provide for our elderly who provided for us. I am sick of seeing our government pledge billions of dollars of taxpayer money to countries that hate us. It is wrong and foolish. . . .

We have got a mess on our hands. Our Congress and Senate need to stand up for what is right . . . and protect and defend the U.S. Constitution as they swore to do. Quit being swayed by interest groups, and money. Stand for what is good for our Country not what is good for their pocketbook. We need some men and women with character and honor . . . I hope you will be a man of character and honor and serve this nation as is needed. May God bless and help you in this fight.

MRS. KENNETH.

ADDITIONAL STATEMENTS

90TH BIRTHDAY OF MAURY ALBERTSON

• Mr. ALLARD. Mr. President, today I honor Colorado State University professor Maury Albertson in recognition of his 90th birthday on August 30, 2008.

Dr. Albertson has distinguished himself in countless ways throughout his extensive and renowned career. He has been a devout champion of civic responsibility, a selfless servant to others, and a man who has changed lives worldwide through his compassion and understanding of other peoples and cultures.

As a young professor in 1960, Dr. Albertson and his team of scholars and students won a contract to study the option and assess the likelihood of creating an International Youth Corps, which laid the groundwork for the creation of the Peace Corps. He later went on to coauthor ''New Frontiers for American Youth'' that put forth the basic design for the Peace Corps.

Throughout his many years as a consultant for the World Bank, the United Nations Development Program, the Agency for International Development, and others, Dr. Albertson organized and advanced innovative projects involving sanitation, water resource development, village development, small industry development, and research and education.

A true believer in the philosophy of local empowerment, Dr. Albertson founded and currently serves as president of Village Earth, an international organization that has trained villages and NGOs in 15 countries in the methods of sustainable village development. Remarkably, in 1993, Dr. Albertson

convened an international conference on sustainable village development, attended by over 350 people from 34 countries. It was an extraordinary success.

In May, 2006, Colorado State University awarded Dr. Albertson an honorary Doctor of Humane Letters in recognition of his exceptional contributions to industry and developing nations. This was a well-deserved honorary degree for Dr. Albertson.

Mr. President, I am proud the Senate has recognized the many accomplishments of Dr. Maury Albertson, a distinguished professor and true humanitarian.●

HONORING MOUNTAIN HOME AIR FORCE BASE

● Mr. CRAPO. Mr. President, I am pleased to recognize the outstanding accomplishments of the 366th Fighter Wing at Mountain Home Air Force Base in my home State of Idaho. The Gunfighters at Mountain Home earned the Air Force Meritorious Unit Award for the 17-month period from January 1, 2007, to May 31, 2008. The award is presented to active duty, Reserve and Guard units for exceptionally meritorious conduct in several areas, including outstanding services for at least three months during military operations against an armed enemy, outstanding devotion to duty and superior performance of exceptionally difficult tasks setting them apart from other units with similar missions. This award was established following September 11.

According to the 366th Fighter Wing Commander, COL James S. Browne, the Gunfighters earned this prestigious honor for exceptional conduct in direct support of combat operations in Iraq and Afghanistan, which include the historical deployment of Mountain Home AFB's F–15E Strike Eagles to Bagram Airfield, Afghanistan, as well as its direct support of 600 close air support missions over the Iraq. I offer my congratulations to all members of the 366th, and commend them on a job that continues to be extremely well done. Idaho is very proud of her Air Force personnel, and remains honored to be the host of these men and women who make Idaho home during their military service. The Gunfighters' outstanding accomplishments in earning this reward reflect well on them, their units, their families and their adopted state. This award demonstrates, yet again, the outstanding commitment that our Mountain Home Air Force Base airmen have to their mission, their excellence in support and execution of the strategic goals of our military mission overseas and their unwavering defense of our Nation.●

TRIBUTE TO RETIRED BRIGADIER GENERAL KENNETH M. TAYLOR

● Mr. INHOFE. Mr. President, all of us know what happened at Pearl Harbor on December 7, 1941. We have seen and read about the brave men and women who fought that day. Today, I rise to pay special tribute to one of those men, Kenneth M. Taylor a retired U.S. Air Force brigadier general, a fighter pilot, war hero, and, of course, a Sooner.

Seventy years ago, Ken Taylor graduated from high school in Hominy, OK, and entered the University of Oklahoma, as a pre-law student. Like many college students in 1938, he was enjoying life with his fraternity brothers but could not avoid thinking about what was happening in Europe, the South Pacific and Asia. He believed America would be going to war in the next year or two and wanted his first choice should his country go to war. He joined the Army Air Corps in 1940 and graduated from the U.S. Army Air Corps Training Center at Brooks Field near San Antonio, TX, on April 25, 1941. Second Lieutenant Taylor requested to fly fighters and, in June 1941, he was assigned to the 47th Pursuit Squadron at Wheeler Army Airfield in Honolulu, HI.

After arriving at Wheeler Field, Lieutenant Taylor met another pilot, George Welch, from Wilmington, DE, and they became close friends. Taylor and Welch were both assigned to fly the Curtiss P–40B Warhawk, a single-engine, single-seat, fighter and ground attack aircraft. On the ground, they were seen as goof-offs and a nuisance to West Pointers. However, the commander of the 47th Pursuit Squadron, Captain Gordon Austin, said he immediately recognized their extraordinary skills as pilots and made them flight leads.

About 3 a.m. on December 7, Taylor and Welch were just returning from their Saturday evening on the town. Just before 8 a.m., Taylor was awakened by low-flying planes and explosions. He jumped out of bed, quickly put on his tuxedo pants from the night before, and ran into the street to see Japanese planes firing and dropping bombs on the base. He called Haleiwa Auxiliary air field where 18 P–40B fighters were located and, without orders, he told the ground crews to get two P–40 fighters armed and ready for takeoff. Enroute to Haleiwa, Taylor and Welsh were strafed by Japanese aircraft as they made their 10 mile trek to Haleiwa in Taylor's new Buick. At the airstrip, they climbed into their Curtiss P–40B Warhawk fighters and headed towards Barber's Point at the southwest tip of Oahu. Unfortunately, the aircraft only had .30-caliber gunnery practice ammo.

Initially, Taylor and Welsh saw an unarmed group of American B–17 Flying Fortress bombers who were arriving from the mainland but then spotted twelve Japanese torpedo dive bombers near Ewa Mooring Mast Field, a Marine base near Pearl Harbor. Lieutenant Taylor shot down two dive bombers and was able to damage another before running out of ammunition and returned with Welsh to Wheeler Field to rearm with .50-caliber bullets. On the ground at Wheeler, several senior officers climbed up on the wings of their aircraft and told them to disperse their aircraft and do not go up again. Luckily, as Lieutenant Taylor explained later, a second wave of Japanese aircraft flew over and ''the brass'' ran for safety. With fuel and ammo, Taylor and Welsh took to the air again straight into the wave of Japanese aircraft attacking Wheeler Field.

As Taylor headed for a group of Japanese aircraft, he found himself in the middle of a line of Japanese planes. A bullet from a plane behind him came through his canopy about an inch from his head, hit the trim tab, went though his left arm and exploded. One piece of shrapnel went through his left arm and another piece went into his leg, ruining his tux pants. Taylor reflected on the injuries in a 2001 interview, saying ''It was of no consequence; it just scared the hell out of me for a minute.'' A few years after the interview, he received two slugs from his crew chief that had been found behind his seat. Welch saw Taylor's predicament and shot down the plane on his friend's tail, likely saving his life. Both pilots continued their aerial combat until they had chased the Japanese planes off the north shore and again were out of ammunition.

Fourteen different American pilots were able to take off during the surprise attack on Pearl Harbor and recorded 10 Japanese aircraft kills. Lieutenant Taylor was credited with two kills and two probables. On December 13, 1941, the U.S. War Department named Lieutenants Taylor and Welsh as the official first two heroes of World War II and both were awarded the Distinguished Flying Cross on January 8. When asked about his actions that day, Taylor reflected, ''I wasn't in the least bit terrified, and let me tell you why: I was too young and too stupid to realize that I was in a lot of danger.'' Lieutenant Taylor went on to a record total of six career kills, designating him as a flying ace.

Ken Taylor served for 27 years of active duty before joining the Alaska Air National Guard in 1967. He has commanded at all levels, retiring as a brigadier general in 1971. His Pearl Harbor experience was portrayed in the 1970 film ''Tora! Tora! Tora!'' and the 2001 film ''Pearl Harbor.'' Ken passed away on 25 November 2006 just a few days shy of his 65th birthday. He is buried at Arlington National Cemetery.

I am honored to be able to present this small tribute to an American hero whose leadership and bravery ensured our Nation and its people remain free and strong. We must never forget the sacrifices of those who have gone before us as well as those who are sacrificing today. I offer my sincere thanks and appreciation to Ken Taylor and his family for his service to our great Nation.●

CONGRATULATING THE CITY OF PLYMOUTH, MINNESOTA

• Ms. KLOBUCHAR. Mr. President, I wish to congratulate the city of Plymouth, MN, for being named the ''Best City in America'' by the staff and writers of Money Magazine.

Because of this recognition, the country now knows what the residents of Plymouth, MN, have already known: that Plymouth is an exceptional place to live and grow, rich in culture and character.

The median household costs of single family homes in Plymouth allow families to responsibly purchase homes that are appropriate to their needs. When looking for educational or entertainment opportunities though, residents of Plymouth have access to a wide array of events at the Hilde Performance Center and other entertainment venues, as well as 40 public parks, 100 miles of trails, and half a dozen large lakes to swim, fish, and run around. With over 104 libraries within 15 miles, it is no surprise that the Plymouth public school system is ranked among the top three districts in a State renowned for education leadership. There are also 27 colleges, universities, and professional schools within a few miles of the city, exemplifying why 83 percent of Plymouth's citizens attended college.

Plymouth is not only the best city in America because of its proximity to arts, education, and the outdoors, it is also home to a healthy and thriving economy and active local government. The 50,000 jobs created in the city of Plymouth aids in independent business development, low crime rates, and allows for greater access to heath care options, so critical to Plymouth's low rates of diabetes and hypertension. Plymouth's local government recently led an effort to have a ''green roof'' and rain gardens installed when City Hall was expanded, thereby reducing greenhouse gases and mitigating the impact of pollution through water runoff.

Acknowledging this city's many successes, today I encourage other communities to follow the lead of Plymouth, MN, and encourage business leadership, civic investment, and community cohesiveness through its commerce, government, schools, entertainment, and health care initiatives.•

TRIBUTE TO TOM J. MORRIS

• Ms. LANDRIEU. Mr. President, I would like to take a few minutes to reflect upon the memory of Tom J. Morris, a true hero to the men and women of Louisiana. Tom died while traveling on vacation with his wife Denise in Boston last Friday morning. As an individual who shares his commitment to civil service and the State of Louisiana, I wanted to honor his truly inspiring career. For the last 19 years, Tom was the CEO for the United Way of Southwest Louisiana, Inc., in Lake Charles. In sum, he had a combined 30 years of service with the United Way and was considered a leader in the community of Lake Charles, particularly in the wake of Hurricanes Katrina and Rita. As you know, United Way is a nonprofit organization dedicated to nurturing the future generations and youth of the United States. Tom Morris was a man who represented the convictions of this Nation's youth, by bringing together communities and organizations in order to solve today's dilemmas. Louisiana is still in the wake of the hurricanes, and his dedicated assistance to victims, as well as the general community, will be sorely missed. His efforts to inspire young volunteers and assist in hurricane recovery are still considered vital to the reconstruction of local communities in Louisiana. To his family and his wife Denise, I extend my condolences and my prayers. Tom Morris's efforts are truly inspirational and will always be remembered, not only by the men and women of southwest Louisiana but by also by the Nation as a whole.•

ANIVERSARY OF THE DITCHLEY FOUNDATION

• Mr. LUGAR. Mr. President, I am pleased to have the opportunity to pay tribute to the work of the Ditchley Foundation on the occasion of the 50th anniversary of its founding.

Since the foundation's inception in 1958, several of my colleagues, on both sides of the aisle and in both Chambers of the Congress, have taken part in the conferences held at Ditchley Park. This beautiful 18th century country house a few miles outside of Oxford, England, was used as a weekend retreat by Prime Minister Winston Churchill and Averill Harriman, then U.S. Ambassador to Great Britain, during the frequent bombings of London during World War II. Today, Ditchley Park is home to around a dozen conferences each year on topics of relevance to transatlantic relations and international policy concerns in general. This series includes a keynote annual address given by a distinguished lecturer every summer.

This year's lecture gathering was especially noteworthy during this anniversary year. Individuals from a number of fields and countries attended, including our former colleague in the House of Representatives, now president emeritus of New York University, Dr. John Brademas. Dr. Brademas is himself a trustee of the Ditchley Foundation and was for several years chairman of the American Ditchley Foundation.

The current chairman is Rita E. Hauser, president of the Hauser Foundation and a former member of the President's Foreign Intelligence Advisory Board. Further, the executive director of American Ditchley is John J. O'Conner, vice chancellor and secretary of the State University of New York.

At the annual lecture on July 11, 2008, chairman of the Ditchley Foundation and former Prime Minister of the United Kingdom John Major made the following introductory remarks, which I would like to share with my colleagues. I ask to have the remarks printed in the RECORD.

The material follows.

''Ditchley is one of the hidden gems of the Transatlantic relationship.

It doesn't feature in Presidential speeches or Prime Ministerial briefing. Mercifully, it is not a plaything of the media: but its role as a clearing house for ideas; a forum for debate and discussion; and a magnet for policymakers gives it a unique status. It is the intellectual expression of 'soft power' and a tribute to the pre-eminence of reason and rational debate.

Of course—you all know that: it is why you are here. All of you know Ditchley, are committed to Ditchley, care about its future and have contributed generously to ensure it. For that—I thank you most warmly; it is a delight to see you all here this evening. My only regret is that many others—who also care for Ditchley and have been enormously generous to it—could not be here to join us. In their absence, I thank them, too, for all their support.

On Ditchley's 50th Anniversary, I think it worthwhile to look at its role.

My father was half-American. Brought up in the United States he drilled into me as a boy the importance of the Transatlantic relationship. His affection for it was emotional—but the economic, political and military case is even stronger. And yet we cannot take this for granted; it is not necessarily a fixed star in the firmament. Geography hugs Britain to her neighbors in Europe, and so does trade.

Trade and real politik turn American eyes to the East: there is no room for complacency. The most successful alliance in history is not immutable. It needs cherishing to keep it in good order.

Ditchley plays a role in this. And why is that? It is, of course, because thoughtful minds—lifting debate from the ephemeral to the eternal—see the importance (and the self-interest if you like) of nurturing Transatlantic ties.

But there is a further reason why Ditchley plays a role—a more prosaic reason. It is because one man saw the importance of the subject and had the vision to establish Ditchley in order to do something about it. That man was David Wills. Today, we remember and honour his vision, his commitment and his generosity. He saw the need—forgive the unintended pun—and he willed the means. David Wills is the Father of Ditchley and the effect of his invisible hand is evident in the continuing and instinctive relationship of trust that we take for granted across the Atlantic.

He chose wisely, too, in entrusting his legacy to Lady Wills and Catherine Wills. No one could have cared for Ditchley more, and their generosity has always been outstanding. I don't simply mean generosity in material terms—though certainly that, for the Wills family were by far the largest contributors to our recent fundraising campaign—but also their personal commitment in time and involvement. They are the living embodiment of Ditchley. I believe they can be satisfied that their actions have helped bind the ties that keep us safe and prosperous.

Following Sir John's remarks, the annual lecture was delivered by an eminent British scholar and scientist, Professor Martin Rees, a member of the House of Lords. President of the Royal Society, Lord Rees of Ludlow is

also Master of Trinity College, Cambridge University, and Astronomer Royal. The address by Lord Rees, in full, was as follows:

Last year, Brent Scowcroft stood at this podium as Ditchley Lecturer. It's daunting to follow him. I'll take as my text his concluding words:

''If we behave wisely, prudently and in close strategic cooperation with each other, the 21st century could be the best yet in the rather dismal history of mankind.''

This is the 50th anniversary of the Ditchley Foundation, and I've been asked to offer a scientist's perspective on the next fifty years. As an astronomer, I often get mistakenly described as an astrologer—but I cast no horoscopes and have no crystal ball. My message will be that the Promethean power of science offers greater opportunities than ever before—for the developing and the developed world. We can indeed be optimistic: we can surely expect huge economic and social advances, especially in Asia. But there will be new challenges and vulnerabilities to contend with.

THE LAST 50 YEARS

Fifty years ago no-one here could confidently have predicted the geopolitical landscape of today. And scientific forecasting is just as hazardous. Three of today's most remarkable technologies had their gestation in the 1950s. But nobody could then have guessed how pervasively they would shape our lives today.

It was in 1958 that Jack Kilby of Texas Instruments and Robert Noyce of Fairchild Semiconductors built the first integrated circuit—the precursor of today's ubiquitous silicon chips, each containing literally billions of microscopic circuit elements. This was perhaps the most transformative single invention of the past century.

A second technology with huge potential began in Cambridge in the 1950s, when Watson and Crick discovered the bedrock mechanism of heredity—the famous double helix. This discovery launched the science of molecular biology, opening exciting prospects in genomics and synthetic biology.

And it's just over 50 years since the launch of Sputnik. This event started the 'space race', and led President Kennedy to inaugurate the programme to land men on the Moon. Kennedy's prime motive was of course superpower rivalry—cynics could deride it as a stunt. But it was an extraordinary technical triumph—especially as NASA's total computing power was far less than in a single mobile phone today. And it had an inspirational aspect too: it offered a new perspective on our planet. Distant images of Earth—its delicate biosphere of clouds, land and oceans contrasting with the sterile moonscape where the astronauts left their footprints—have, ever since the 1960s, been iconic for environmentalists.

Most of us here are old enough to recall the Apollo programme. But it's nearly 40 years since Neil Armstrong's 'first small step'. To young people today, however, this is ancient history: they know that the Americans went to the Moon, just as they know the Egyptians built pyramids, but the motives for these two enterprises may seem equally baffling.

There was no real follow-on after Apollo: there is no practical or scientific motive adequate to justify the huge expense of NASA-style manned spaceflight, and it has lost its glamour. But unmanned space technology has flourished, giving us GPS, global communications, environmental monitoring and other everyday benefits, as well as an immense scientific yield. But of course there is a dark side. Its initial motivation was to provide missiles to carry nuclear weapons. And those weapons were themselves the outcome of a huge enterprise, the Manhattan project, that was even more intense and focused than the Apollo programme.

Soon after World War II, some physicists who had been involved in the Manhattan project founded a journal called the Bulletin of Atomic Scientists, aimed at promoting arms control. The 'logo' on the Bulletin's cover is a clock, the closeness of whose hands to midnight indicates the Editorial Board's judgement on how precarious the world situation is. Every year or two, the minute hand is shifted, either forwards or backwards.

It was closest to midnight at the time of the Cuban Missile Crisis. Robert MacNamara spoke frankly about that episode in his confessional movie 'Fog of War'. He said that ''We came within a hairbreadth of nuclear war without realising it. It's no credit to us that we escaped—Khrushchev and Kennedy were lucky as well as wise''. Indeed on several occasions during the Cold War the superpowers could have stumbled towards armageddon.

When the Cold War ended, the Bulletin's clock was put back to 17 minutes to midnight. There is now far less risk of tens of thousands of H-bombs devastating our civilisation. Indeed one clear reason for sharing Brent Scowcroft's optimism is that the greatest peril to confront the world from the 1950s to the 1980s—massive nuclear annihilation—has diminished.

But the clock has been creeping forward again. There is increasing concern about nuclear proliferation, and about nuclear weapons being deployed in a localised conflict. And Al Qaida-style terrorists might some day acquire a nuclear weapon. If they did, they would willingly detonate it in a city, killing tens of thousands along with themselves, and millions would acclaim them as heroes.

And the threat of a global nuclear catastrophe could be merely in temporary abeyance. I'm diffident about even mentioning such matters to an audience where there's so much experience and expertise. But during this century, geopolitical realignments could be as drastic as those during the last century, and could lead to a nuclear standoff between new superpowers that might be handled less well—or less luckily—than the Cuba crisis was.

The nuclear age inaugurated an era when humans could threaten the entire Earth's future—what some have called the 'anthropocene' era. We'll never be completely rid of the nuclear threat. But the 21st century confronts us with new perils as grave as the bomb. They may not threaten a sudden world-wide catastrophe—the doomsday clock is not such a good metaphor—but they are, in aggregate, worrying and challenging.

I want briefly to address some of these themes, and then, near the end of my lecture, to comment on the role of science and scientists in the policy arena.

ENERGY AND CLIMATE

High on the global agenda are energy supply and energy security. These are crucial for economic and political stability, and linked of course to the grave issue of long-term climate change.

Human actions—mainly the burning of fossil fuels—have already raised the carbon dioxide concentration higher than it's ever been in the last half million years. Moreover, according to 'business as usual' scenarios, it will reach twice the pre-industrial level by 2050, and three times that level later in the century. This much is entirely uncontroversial. Nor is there significant doubt that CO_2 is a greenhouse gas, and that the higher its concentration rises, the greater the warming—and, more important still, the greater the chance of triggering something grave and irreversible: rising sea levels due to the melting of Greenland's icecap; runaway greenhouse warming due to release of methane in the tundra, and so forth.

There is a substantial uncertainty in just how sensitive the temperature is to the CO_2 level. The climate models can, however, assess the likelihood of a range of temperature rises. It is the 'high-end tail' of the probability distribution that should worry us most—the small probability of a really drastic climatic shift. Climate scientists now aim to refine their calculations, and to address questions like: Where will the flood risks be concentrated? What parts of Africa will suffer severest drought? Where will the worst hurricanes strike?

The 'headline figures' that the climate modellers quote—2, 3 or 5 degrees rise in the mean global temperature—might seem too small to fuss about. But two comments should put them into perspective.

First, even in the depth of the last ice age the mean temperature was lower by just 5 degrees. Second, the prediction isn't a uniform warming: the land warms more than the sea, and high latitudes more than low. Quoting a single figure glosses over shifts in global weather patterns that will be more drastic in some regions than in others, and could involve relatively sudden 'flips' rather than steady changes.

Nations can adapt to some of the adverse effects of warming. But the most vulnerable people—in, for instance, Africa or in Bangladesh—are the least able to adapt.

The science of climate change is intricate. But it's a doddle compared to the economics and politics. Global warming poses a unique political challenge for two reasons. First, the effect is non-localised: the CO_2 emissions from this country have no more effect here than they do in Australia, and vice versa. That means that any credible regime whereby the 'polluter pays' has to be broadly international.

Second, there are long time-lags—it takes decades for the oceans to adjust to a new equilibrium, and centuries for ice-sheets to melt completely. So the main downsides of global warming lie a century or more in the future. Concepts of intergenerational justice then come into play: How should we rate the rights and interests of future generations compared to our own? What discount rate should we apply?

In his influential 2006 report for the UK government, Nicholas Stern argued that equity to future generations renders a 'commercial' discount rate quite inappropriate. Largely on that basis he argues that we should commit substantial resources now, to pre-empt much greater costs in future decades.

There are of course precedents for long-term altruism. Indeed, in discussing the safe disposal of nuclear waste, experts talk with a straight face about what might happen more than 10,000 years from now, thereby implicitly applying a zero discount rate. To concern ourselves with such a remote 'post-human' era might seem bizarre. But all of us can surely empathise at least a century ahead. Especially in Europe, we're mindful of the heritage we owe to centuries past; history will judge us harshly if we discount too heavily what might happen when our grandchildren grow old.

To ensure a better-than-evens chance of avoiding a potentially dangerous 'tipping point'; global CO_2 emissions must, by 2050, be brought down to half the 1990 level. This is the target espoused by the G8. It corresponds to two tons of CO_2 per year from

each person on the planet. For comparison, the current European figure is about 10, and the Chinese level is already 4. To achieve this target without stifling economic growth—to turn around the curve of CO_2 emissions well before 2050—is a huge challenge. The debates last week in Japan indicated the problems—especially how to bring India and China into the frame. The great emerging economies have not caused the present problem, but if they develop in as carbon-intensive a way as ours did, they could swamp and negate any measures taken by the G8 alone.

Realistically, however, there is no chance of reaching this target, nor of achieving real energy security, without drastically new technologies. Though I'm confident that these will have emerged by the second half of the century, the worry is that this may not be soon enough.

Efforts to develop a whole raft of techniques for economising on energy, storing it and generating it by 'clean' or low-carbon methods, deserve a priority and commitment from governments akin to that accorded to the Manhattan project or the Apollo moon landing. Current R and D is far less than the scale and urgency demands. To speed things up, we need a 'shotgun approach'—trying all the options. And we can afford it: the stakes are colossal. The world spends around 7 trillion dollars per year on energy and its infrastructure. The U.S. imports 500 billion dollars worth of oil each year.

I can't think of anything that could do more to attract the brightest and best into science than a strongly proclaimed commitment—led by the U.S. and Europe—to provide clean and sustainable energy for the developing and the developed world.

Even optimists about prospects in solar energy, advanced biofuels, fusion and other renewables have to acknowledge that it will be at least 40 years before they can fully 'take over'. Coal, oil and gas seem set to dominate the world's every-growing energy needs for at least that long. Last year the Chinese built 100 coal-fired power stations. Coal deposits representing a million years' accumulation of primeval forest are now being burnt in a single year.

Coal is the most 'inefficient' fossil fuel in terms of energy generated per unit of carbon released. Annual CO_2 emissions are rising year by year. Unless this rising curve can be turned around sooner, the atmospheric concentration will irrevocably reach a threatening level.

So an immediate priority has to be a coordinated international effort to develop carbon capture and storage—CCS. Carbon from power stations must be captured before it escapes in the atmosphere; and then piped to some geological formation where it can be stored without leaking out. It's crucial to agree a timetable, and a coordinated plan for the construction of CCS demonstration plants to explore all variants of the technology. To jump-start such a programme would need up to 10 billion dollars a year of public funding worldwide (preferably as part of public-private partnerships). But this is a small price to pay for bringing forward, by five years or more, the time when CCS can be widely adopted and the graph of CO_2 emissions turned around.

What is the role of nuclear power in all this? The concerns are well known—it is an issue where expert and lay opinions are equally divided. I'm myself in favour of the UK and the U.S. having at least a replacement generation of power stations—and of R and D into new kinds of reactors. But the non-proliferation regime is fragile, and before being relaxed about a world-wide programme of nuclear power, one would surely require the kind of fuel bank and leasing arrangement that has been proposed by Mohamed el Baradei at the IAEA .

NATURAL RESOURCES AND POPULATION

Energy security and climate change are the prime 'threats without enemies' that confront us. But there are others. High among these is the threat to biological diversity caused by rapid changes in land use and deforestation. There have been 5 great extinctions in the geological past; human actions are causing a 6th. The extinction rate is 1000 times higher than normal, and increasing. We are destroying the book of life before we have read it.

Biodiversity—manifested in forests, coral reefs, marine blue waters and all Earth's other ecosystems—is often proclaimed as a crucial component of human wellbeing and economic growth. It manifestly is: we're clearly harmed if fish stocks dwindle to extinction; there are plants whose gene pool might be useful to us. And massive destruction of the rain forests would accelerate global warming. But for environmentalists these 'instrumental'—and anthropocentric—arguments aren't the only compelling ones. For them, preserving the richness of our biosphere has value in its own right, over and above what it means to us humans.

Population growth, of course, aggravates all pressures on energy and environment. Fifty years ago the world population was below 3 billion. It has more than doubled since then, to 6.6 billion. The percentage growth-rate has slowed, but the global figure is projected to reach 8 or even 9 billion by 2050. The excess will almost all be in the developing world.

There is, incidentally, a global trend from rural towards urban living. More than half the world's population is now urban—and megacities are growing explosively.

There is an extensive literature on the 'carrying capacity' of our planet—on how many people it can sustain without irreversible degradation. The answer of course depends on lifestyle. The world could not sustain its present population if everyone lived like present-day Americans or Europeans. On the other hand, the pressures would plainly be eased if people travelled little and interacted via super-internet and virtual reality. And, incidentally, if they were all vegetarians: it takes 13 pounds of corn to make one pound of beef.

If population growth continues even beyond 2050, one can't be other than exceedingly gloomy about the prospects. However, there could be a turnaround. There are now more than 60 countries in which fertility is below replacement level—it's far below in, for instance, Italy and Singapore. In Iran the fertility rate has fallen from 6.5 in 1980 to 2.1 today. We all know the social trends that lead to this demographic transition—declining infant mortality, availability of contraceptive advice, women's education, and so forth.

If the transition quickly extended to all countries, then the global population could start a gradual decline after 2050—a development that would surely be benign.

There is, incidentally, one 'wild card' in all these long-term forecasts. This is the possibility that the average lifespan in advanced countries may be extended drastically by some biomedical breakthrough.

The prognosis is especially bleak in Africa, where there could be a billion more people in 2050 than there are today. It's worth quoting some numbers here. A hundred years ago, the population of Ethiopia was 5 million. It is now 75 million (of whom 8 million need permanent food aid) and will almost double by 2050. Quite apart from the problem of providing services, there is consequent pressure on the water resources of the Nile basin.

Over 200 years ago, Thomas Malthus famously argued that populations would rise until limited by food shortages. His gloomy prognosis has been forestalled by advancing technology, the green revolution and so forth, but he could be tragically vindicated in Africa. Continuing population growth makes it harder to break out of the poverty trap—Africa not only needs more food, but a million more teachers annually, just to keep standards level. And just as today's population couldn't be fed by yesterday's agriculture, a second green revolution may be needed to feed tomorrow's population.

But the rich world has the resources, if the will is there, to enhance the life-chances of the world's billion poorest people—relieving the most extreme poverty, providing clean water, primary education and other basics. This is a precondition of achieving in Africa the demographic tradition that has occurred elsewhere. The overseas aid from most countries, including the U.S., is far below the UN's target of 0.7 percent of GNP. It would surely be shameful, as well as against even our narrow self-interests, if the Millennium Goals set for 2015 were not met.

(To inject a pessimistic note in parenthesis, the meagre underfunding of overseas aid, even in a context where the humanitarian imperative seems so clear, augurs badly for the actual implementation of the measures needed to meet the 2050 carbon emission targets—generally quoted as around 1 percent of GNP—where the payoff is less immediately apparent.)

SOME NEW VULNERABILITIES

Infectious diseases are mainly associated with developing countries—but in our interconnected world we are now all more vulnerable. The spread of epidemics is aggravated by rapid air travel, plus the huge concentrations in megacities with fragile infrastructures.

Whether or not a pandemic gets global grip may hinge on the efficiency of worldwide monitoring—how quickly a Vietnamese or Sudanese poultry farmer can diagnose or report any strange sickness.

In our everyday lives, we have a confused attitude to risk. We fret about tiny risks: carcinogens in food, a one-in-a-million chance of being killed in train crashes, and so forth. But we're in denial about others that should loom much larger. If we apply to pandemics the same prudent analysis that leads us to buy insurance—multiplying probability by consequences—we'd surely conclude that measures to alleviate this kind of extreme event need higher priority. A global pandemic could kill tens of millions and cost many trillions of dollars.

This thought leads me to new vulnerabilities of a different kind: vulnerabilities stemming from the misuse of powerful technologies—either through error or by design. Biotechnology, for instance, holds huge promise for health care, for enhanced food production, even for energy. But there is a downside.

Here's a quote from the American National Academy of Sciences: ''Just a few individuals with specialized skills . . . could inexpensively and easily produce a panoply of lethal biological weapons. . . . The deciphering of the human genome sequence and the complete elucidation of numerous pathogen genomes . . . allow science to be misused to create new agents of mass destruction'.''

Not even an organized network would be required: just a fanatic, or a weirdo with the mindset of those who now design computer viruses—the mindset of an arsonist. The techniques and expertise for bio or cyber attacks will be accessible to millions.

We're kidding ourselves if we think that technical expertise is always allied with balanced rationality: it can be combined with

fanaticism—not just the traditional fundamentalism that we're so mindful of today, but new age irrationalities. I'm thinking of cults such as the Raelians: and of extreme eco-freaks, animal rights campaigners and the like. The global village will have its village idiots.

In a future era of vast individual empowerment, where even one malign act would be too many, how can our open society be safeguarded? Will there be pressures to constrain diversity and individualism? Or to shift the balance between privacy and intrusion? These are stark questions, but I think they are deeply serious ones. (Though—to inject a slightly frivolous comment—the careless abandon with which younger people put their intimate details on Facebook, and the broad acquiescence in ubiquitous CCTV, suggests that in our society there will be surprisingly little resistance to loss of privacy.)

Developments in cyber, bio or nano-technology will open up new risks of error or terror. Our global society is precariously dependent on elaborate networks—electricity grids, air traffic control, the internet, just-in-time delivery and so forth—whose collapse could stress it to breaking point. It's crucial to ensure maximal resilience of all such systems.

At the start of this lecture, I cited three technologies that now pervade our lives in ways quite unenvisioned 50 years ago. Likewise, by extrapolating from the present, I have surely missed the qualitatively greatest changes that may occur in the next 50.

The great science-fiction writer Arthur C. Clark opined that any ultra-advanced technology was indistinguishable from magic. Everyday consumer items like Sony game stations, sat-nav and Google would have seemed magic 50 years ago.

In the coming decades, there could be qualitatively new kinds of change. One thing that's been unaltered for millennia is human nature and human character. But in this century, novel mind-enhancing drugs, genetics, and 'cyberg' techniques may start to alter human beings themselves. That's something qualitatively new in recorded history.

And we should keep our minds open, or at least ajar, to concepts on the fringe of science fiction—robots with many human attributes, computers that make discoveries worthy of Nobel prizes, bioengineered organisms, and so forth. Flaky Californian futurologists aren't always wrong.

Opinion polls in England show that people are generally positive about science's role, but are concerned that it may 'run away' faster than we can properly cope with it. Some commentators on biotech, robotics and nanotech worry that when the genie is out of the bottle, the outcome may be impossible to control. They urge caution in 'pushing the envelope' in some areas of science.

The uses of academic research generally can't be foreseen: Rutherford famously said, in the mid-thirties, that nuclear energy was 'moonshine'; the inventors of lasers didn't foresee that an early application of their work would be to eye surgery; the discoverer of x-rays was not searching for ways to see through flesh. A major scientific discovery is likely to have many applications—some benign, others less so—none of which was foreseen by the original investigator.

We can't reap the benefits of science without accepting some risks—the best we can do is minimize them. Most surgical procedures, even if now routine, were risky and often fatal when they were being pioneered. In the early days of steam, people died when poorly designed boilers exploded.

But something has changed. Most of the 'old' risks were localized. If a boiler explodes, it's horrible but there's an 'upper bound' to just how horrible. In our ever more interconnected world, there are new risks whose consequences could be so widespread that even a tiny probability is unacceptable.

There will surely be a widening gulf between what science enables us to do, and what applications it's prudent or ethical actually to pursue—more doors that science could open but which are best kept closed.

There are already scientific procedures—human reproductive cloning, synthetic biology and the rest—where regulation is called for, on ethical as well as prudential grounds. And there will be more. Regulations will need to be international, and to contend with commercial pressures—and they may prove as hard to enforce as the drug laws. If one country alone imposed regulations, the most dynamic researchers and enterprising companies would migrate to another that was more permissive. This is happening already, in a small way, in primate and stem cell research.

THE INTERNATIONAL SCIENTIFIC COMMUNITY

Some comments, now, on the role of the scientific community. Science is the only truly global culture: protons, proteins, and Pythagoras's theorem are the same from China to Peru. Research is international, highly networked, and collaborative. And most science-linked policy issues are international, even global—that's certainly true of those I've addressed in this lecture.

This is primarily an Anglo-American gathering, so I hope it's not out of place to emphasis that our two countries have been the most successful in creating and sustaining world-class research universities. These institutions are magnets for talent—both faculty and students—from all over the world, and are in most cases embedded in a 'cluster' of high-tech companies, to symbiotic benefit.

By 2050, China and India should at least gain parity with Europe and the US—they will surely become the 'centre of gravity' of the world's intellectual power. We will need to aim high if we are to sustain our competitive advantage in offering cutting-edge 'value added'.

It's a duty of scientific academies and similar bodies to ensure that policy decisions are based on the best science, even when that science is still uncertain and provisional; this is the Royal Society's role in the UK and that of the National Academy of Sciences in the US. The academies of the G8 + 5 countries are playing an increasing role in highlighting global issues. And one thinks of consortia like the IPCC, and bodies like the WHO.

In this country, an ongoing dialogue with parliamentarians on embryos and stem cells has led to a generally-admired legal framework. On the other hand, the GM crops debate went wrong here because we came in too late, when opinion was already polarized between eco-campaigners on the one side and commercial interests on the other. I think we have recently done better on nanotechnology, by raising the key issues early. It's necessary to engage with the public 'upstream' of any legislation or commercial developments.

We need to point out that the resources and expertise devoted to applications of science are not deployed optimally. Some subjects have had the 'inside track' and gained disproportionate resources; huge sums, for instance, are still devoted to new weaponry. On the other hand, environmental projects, renewable energy, and so forth, deserve more effort. In medicine, the focus is disproportionately on cancer and cardiovascular studies, the ailments that loom largest in prosperous countries, rather than on the infections endemic in the tropics.

Policy decisions—whether about energy, GM technology, mind-enhancing drugs or whatever—are never solely 'scientific': strategic, economic, social, and ethical ramifications enter as well. And here scientists have no special credentials. Choices on how science is applied shouldn't be made just by scientists. That's why everyone needs a 'feel' for science and a realistic attitude to risk—otherwise public debate won't rise above the level of tabloid slogans.

Scientists nonetheless have a special responsibility. We feel there is something lacking in parents who don't care what happens to their children in adulthood, even though this is largely beyond their control. Likewise, scientists shouldn't be indifferent to the fruits of their ideas—their intellectual creations. They should try to foster benign spin-offs—and of course help to bring their work to market when appropriate. But they should campaign to resist, so far as they can, ethically dubious or threatening applications. And they should be prepared to engage in public debate and discussion.

I mentioned earlier the atomic scientists in World War II. Many of them—and I've been privileged to know some, such as Hans Bethe and Joseph Rotblat—set a fine example. Fate had assigned them a pivotal role in history. They returned with relief to peacetime academic pursuits. But they didn't say that they were 'just scientists' and that the use made of their work was up to politicians. They continued as engaged citizens—promoting efforts to control the power they had helped unleash. We now need such individuals—not just in physics, but across the whole range of applicable science.

A COSMIC PERSPECTIVE

My special subject is astronomy—the study of our environment in the widest conceivable sense. And I'd like to end with a cosmic perspective.

It is surely a cultural deprivation to be unaware of the marvelous vision of nature offered by Darwinism and by modern cosmology—the chain of emergent complexity leading from a still-mysterious beginning to atoms, stars, planets, biospheres and human brains able to ponder the wonder and the mystery. And there's no reason to regard humans as the culmination of this emergent process. Our Sun is less than half way through its life. Any creatures witnessing the Sun's demise, here on earth or far beyond, won't be human—they'll be as different from us as we are from bacteria.

But, even in this cosmic time-perspective—extending billions of years into the future, as well as into the past—this century may be a defining moment. It's the first in our planet's history where one species—ours—has Earth's future in its hands.

I recalled earlier the image of our Earth viewed from space. Suppose some aliens had been watching our planet—a 'pale blue dot' in a vast cosmos, for its entire history, what would they have seen?

Over nearly all that immense time, 4.5 billion years, Earth's appearance would have altered very gradually. The continents drifted; the ice cover waxed and waned; successive species emerged, evolved and became extinct.

But in just a tiny sliver of the Earth's history—the last one millionth part, a few thousand years—the patterns of vegetation altered much faster than before. This signaled the start of agriculture. The changes accelerated as human populations rose.

But then there were other changes, even more abrupt. Within fifty years—little more than one hundredth of a millionth of the Earth's age, the carbon dioxide in the atmosphere began to rise anomalously fast. The planet became an intense emitter of radio waves (the total output from all TV, cellphone and radar transmissions).

And something else unprecedented happened: small projectiles lifted from the planet's surface and escaped the biosphere completely. Some were propelled into orbits around the Earth; some journeyed to the Moon and planets.

If they understood astrophysics, the aliens could confidently predict that the biosphere would face doom in a few billion years when the Sun flares up and dies. But could they have predicted this unprecedented spike less than half way through the Earth's life—these human-induced alterations occupying, overall, less than a millionth of the elapsed lifetime and seemingly occurring with runaway speed?

If they continued to keep watch, what might these hypothetical aliens witness in the next hundred years? Will a final spasm be followed by silence? Or will the planet itself stabilize? And will some of the objects launched from the Earth spawn new oases of life elsewhere?

The answers will depend on us, collectively—on whether we can, to quote Brent Scowcroft again, 'behave wisely, prudently.' '●

TRIBUTE TO SERGEANT PEYTON WILLIAMS

● Mr. SESSIONS. Mr. President, today I pay tribute to SGT Peyton Williams, a constituent of mine from Wetumpka, AL. Sergeant Williams was selected as the Marine of the Year for the Second Marine Division. Out of the over 20,000 marines who comprise the Second Division, Sergeant Williams was selected for his outstanding performance in Operation Iraqi Freedom, OIF. This prestigious award signifies that Sergeant Williams represents the best of what a U.S. Marine should be.

Later this month, Governor Bob Riley will proclaim August 21, 2008, as Sergeant Peyton Williams Day in the State of Alabama. I would like to express my pride in his accomplishment, and appreciation for his service to our Nation in Iraq. Sergeant Williams contributed to the success of the counter-insurgency in the Al Anbar province. His work there was critical to our success in our current operations and he serves as an example to his fellow marines and an inspiration to all young Alabamians who will follow him in service as members of the military.

According to his company commander, CPT Brian Cillessen, ''Peyton has more talent by accident than most Marines learn in a career. He is a great American who has served his country well, and I am proud to have the honor to serve with him and would welcome the opportunity in the future.''

I would like to echo Captain Cillessen's praise of Sergeant Williams, it is Marines like him who have ensured the success of the surge strategy. I believe that with dedicated marines like Sergeant Williams in the force, victory is not only possible in our current operations in Iraq, it is certain.

And so, I applaud Sergeant Williams' hard work, and I look forward to hearing more great things about this fine son of Alabama.●

TRIBUTE TO THE UNIVERSITY OF ALABAMA AT BIRMINGHAM

● Mr. SESSIONS. Mr. President, today I recognize the University of Alabama at Birmingham, UAB, a place known for its outstanding, world-renowned HIV/AIDS research and treatment. Dr. Michael Saag directs the Center for AIDS Research at UAB, which was established in 1988 by the National Institute for Allergy and Infectious Diseases to stimulate research and scientific advancement concerning AIDS and HIV. This program was initiated in 1998 and currently includes 20 centers funded through a consortium of six National Institutes of Health. Under Dr. Saag's exceptional leadership, the UAB Center for AIDS Research has grown dramatically as shown by its increase in total research funding, from $2.9 million dollars in 1988 to over $90 million currently.

UAB has a remarkable program in Zambia, the Center for Infectious Disease Research, headed up by Dr. Jeff Stringer. The UAB Zambia program, which receives funding through the President's Emergency Program for AIDS Relief, PEPFAR, is treating over 170,000 patients, with up to 100,000 patients on ARV treatment.

Dr. Stringer and his remarkable team have also worked vigorously with the Zambian Government to deliver ''prevention of mother-to-child HIV transmission'' services to over 500,000 women in Zambia, preventing tens of thousands of infants from being born with HIV. The UAB HIV prevention and treatment service units support 175 public health facilities in four of the nine provinces of Zambia. Prevention of mother-to-child transmission services are offered in 154 clinics and hospitals.

HIV care and treatment services are offered in 46 sites, and include a comprehensive cervical cancer screening program that has screened over 5,000 women in its first year. Research has shown a direct connection between HIV and cervical cancer among women, and groundbreaking work in the field has demonstrated the importance of screening HIV-infected women for cervical cancer, especially in resource-poor countries of the world. Dr. Groesbeck Parham and his group from UAB/ CIDRZ, using PEPFAR resources, have led the way in creating mechanisms to screen large numbers of women in Zambia, saving thousands of lives.

The UAB Zambia program also provides HIV testing to TB patients, and TB screening for all HIV patients in a comprehensive, integrated TB/HIV initiative.

I applaud the fine work UAB is doing, and I know that their service has saved thousands of lives. This is a prime example of the clear, positive results we have seen come about through PEPFAR, and one major reason I worked to ensure that new PEPFAR legislation preserves the focus on treatment that has undoubtedly contributed to its success.

I am proud of the role UAB has played on an international level in striving to provide top-notch treatment, as well as research to continuously improve on that treatment for Alabama, the nation, and the world, over the past 20 years.●

HONORING DR. EPHRAIM ZUROFF

● Mr. SMITH. Mr. President, I rise today to commend Dr. Ephraim Zuroff and the Simon Wiesenthal Center for their efforts to track down the last Nazi war criminals from World War II. Their work is enormously important, both in bringing the guilty to justice and preventing future acts of genocide. The statute of limitations does not, must not, expire on crimes against humanity. Earlier this year, I introduced the World War II War Crimes Accountability Act with Senator NELSON, which I hope will help Dr. Zuroff and the Simon Wiesenthal Center in their noble effort.

One of the main targets of this effort is Sandor Kepiro, who is charged with the 1942 killing of about 1,000 Jews, Gypsies, and Serbs in Novi Sad, Serbia. Kepiro allegedly committed these crimes while serving as a Hungarian police captain during World War II. He was convicted in 1944, but the verdict was annulled when the Nazis invaded Hungary. He was convicted again in 1946, in absentia, but escaped before serving his sentence. In 2007, a Hungarian court ruled that Kepiro could not be charged again for his alleged crimes. He is now living in Hungary, and the government continues to investigate the circumstances of his WWII activities. The Hungarian government must summon the political will to bring Kepiro to justice. Inaction is not an option.

The Simon Wiesenthal Center launched Operation: Last Chance in 2002, to identify and assist in the prosecution of the remaining Nazi war criminals still at large. Dr. Zuroff, who has been leading this effort, should be highly commended for his outstanding efforts in bringing the most guilty Nazis to justice. Of these, Kepiro is near the top of his list.

Even today, the crimes of people like Kepiro in the service of pro-Nazi regimes strain our understanding of hate. National Socialist Germany today is an icon remembered only for its brutality, its mantra of genocide, and its culture of racism. And those last Nazis, who are waiting out their last days under the coming twilight, must not be allowed to go quietly into the night, as did too many of their victims. For the souls that were lost, and even more for those that remain, there must be justice. I commend Dr. Zuroff and the Simon Wiesenthal Center in the highest possible terms, and urge the United States Government to do all it can to help them in their cause.●

RECOGNIZING JORDAN FINK

• Mr. THUNE. Mr. President, today I recognize Jordan Fink, an intern in my Washington, DC, office, for all of the hard work he has done for me, my staff, and the state of South Dakota over the past several weeks.

Jordan is a graduate of Tripp-Delmont High School in Tripp, SD. Currently he is attending South Dakota State University, where he is majoring in biology. He is a hard worker who has been dedicated to getting the most out of his internship experience.

I would like to extend my sincere thanks and appreciation to Jordan for all of the fine work he has done and wish him continued success in the years to come.•

RECOGNIZING JAMIE LOFTUS

• Mr. THUNE. Mr. President, today I recognize Jamie Loftus, an intern in my Rapid City, SD, office, for all of the hard work he has done for me, my staff, and the State of South Dakota over the past several weeks.

Jamie is a graduate of Stevens High School in Rapid City, SD. Currently he is attending Black Hills State University, where he is majoring in accounting. He is a hard worker who has been dedicated to getting the most out of his internship experience.

I would like to extend my sincere thanks and appreciation to Jamie for all of the fine work he has done and wish him continued success in the years to come.•

RECOGNIZING KELSEY MCKAY

• Mr. THUNE. Mr. President, today I recognize Kelsey McKay, an intern in my Rapid City, SD, office, for all of the hard work she has done for me, my staff, and the State of South Dakota over the past several weeks.

Kelsey is a graduate of T.F. Riggs High School in Pierre, SD. Currently she is attending the College of Saint Benedict, where she is majoring in political science. She is a hard worker who has been dedicated to getting the most out of her internship experience.

I would like to extend my sincere thanks and appreciation to Kelsey for all of the fine work she has done and wish her continued success in the years to come.•

RECOGNIZING MICHAEL MERRY

• Mr. THUNE. Mr. President, today I recognize Michael Merry, an intern in my Washington, DC office, for all of the hard work he has done for me, my staff, and the State of South Dakota over the past several weeks.

Michael is a graduate of Washington High School in Sioux Falls, SD. Currently he is attending the University of South Dakota, where he is majoring in finance and economics. He is a hard worker who has been dedicated to getting the most out of his internship experience.

I would like to extend my sincere thanks and appreciation to Michael for all of the fine work he has done and wish him continued success in the years to come.•

RECOGNIZING SHARAYAH SLAUGHTER

• Mr. THUNE. Mr. President, today I recognize Sharayah Slaughter, an intern in my Rapid City, SD, office, for all of the hard work she has done for me, my staff, and the State of South Dakota over the past several weeks.

Sharayah is currently a student at Douglas High School in Box Elder, SD. She is a hard worker who has been dedicated to getting the most out of her internship experience.

I would like to extend my sincere thanks and appreciation to Sharayah for all of the fine work she has done and wish her continued success in the years to come.•

RECOGNIZING ROBERT STORK

• Mr. THUNE. Mr. President, today I recognize Robert Stork, an intern in my Washington, DC, office, for all of the hard work he has done for me, my staff, and the State of South Dakota over the past several weeks.

Robert is a graduate of Washington High School in Sioux Falls, SD, and of the University of Iowa, where he majored in communication studies. He is a hard worker who has been dedicated to getting the most out of his internship experience.

I would like to extend my sincere thanks and appreciation to Robert for all of the fine work he has done and wish him continued success in the years to come.•

RECOGNIZING ALLISON VOELKER

• Mr. THUNE. Mr. President, today I recognize Allison Voelker, an intern in my Washington, DC, office, for all of the hard work she has done for me, my staff, and the State of South Dakota over the past several weeks.

Allison is a graduate of Canton High School in Canton, SD, and of Biola University, where she majored in psychology. She is a hard worker who has been dedicated to getting the most out of her internship experience.

I would like to extend my sincere thanks and appreciation to Allison for all of the fine work she has done and wish her continued success in the years to come.•

HONORING THE WINNER SCHOOL DISTRICT

• Mr. THUNE. Mr. President, today I honor the Winner School District for being awarded the 2008 Secretary of Defense Employer Support Freedom Award. This award is the highest recognition given by the U.S. Government to employers for their outstanding support of their employees who serve in the National Guard and Reserve.

The Winner School District is one of only 15 employers nationwide to be honored with this prestigious award. The support, encouragement, and flexibility that they provide to their employees who are called to serve their country in the South Dakota National Guard illustrates their deservedness for this high honor. The Winner School District serves as a fine example of South Dakotans coming together to support the cause of freedom around the world. The Winner School District goes the extra mile to accommodate our servicemen and women and thus ensure a safer, more secure America.

Today, I rise with the entire State of South Dakota to commend the Winner School District for their commitment to serving our State and our Armed Forces.•

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sun nominations which were referred to the appropriate committees.

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

MESSAGES FROM THE HOUSE

At 12:33 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 674. An act to amend title 38, United States Code, to repeal the provision of law requiring termination of the Advisory Committee on Minority Veterans as of December 31, 2009.

H.R. 1338. An act 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.

H.R. 4255. An act to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to provide assistance to the Paralympic Program of the United States Olympic Committee, and for other purposes.

H.R. 6083. An act to authorize funding to conduct a national training program for State and local prosecutors.

H.R. 6208. An act to designate the facility of the United States Postal Service located at 1100 Town and Country Commons in Chesterfield, Missouri, as the ''Lance Corporal Matthew P. Pathenos Post Office Building''.

H.R. 6221. An act to amend title 38, United States Code, to require the Secretary of Veterans Affairs to include in each contract the Secretary enters for the acquisition of goods and services a provision that requires the contractee to comply with the contracting

goals and preferences for small business concerns owned or controlled by veterans, and for other purposes.

H.R. 6225. An act to amend title 38, United States Code, relating to equitable relief with respect to a State or private employer, and for other purposes.

H.R. 6309. An act to amend the Residential Lead-Based Paint Hazard Reduction Act of 1992 to define environmental intervention blood lead level, and for other purposes.

H.R. 6437. An act to designate the facility of the United States Postal Service located at 200 North Texas Avenue in Odessa, Texas, as the ''Corporal Alfred Mac Wilson Post Office''.

H.R. 6633. An act to evaluate and extend the basic pilot program for employment eligibility confirmation and to ensure the protection of Social Security beneficiaries.

The message also announced that the House has passed the following bills, without amendment:

S. 3294. A bill to provide for the continued performance of the functions of the United States Parole Commission.

S. 3295. A bill to amend title 35, United States Code, and the Trademark Act of 1946 to provide that the Secretary of Commerce, in consultation with the Director of the United States Patent and Trademark Office, shall appoint administrative patent judges and administrative trademark judges, and for other purposes.

S. 3370. An act to resolve pending claims against Libya by United States nationals, and for other purposes.

The message also announced that pursuant to section 201(b) of the International Religious Freedom Act of 1998 (22 U.S.C. 6431 note), amended by section 681(b) of the Foreign Relations Authorization Act, Fiscal Year 2003 (22 U.S.C. 2651 note), and the order of the House of January 4, 2007, the Speaker reappoints the following member on the part of the House of Representatives to the Commission on International Religious Freedom for a two-year term ending May 14, 2010: Ms. Elizabeth H. Prodromou of Boston, Massachusetts, to succeed herself.

ENROLLED BILL SIGNED

At 1:15 p.m., a message from the House of Representatives, delivered by one of its clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 4040. An act to establish consumer product safety standards and other safety requirements for children's products and to reauthorize and modernize the Consumer Product Safety Commission.

Pursuant to the order of today, August 1, 2008, the enrolled bill was signed by the Senator from Arkansas (Mr. PRYOR).

MEASURES REFERRED

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

H.R. 674. An act to amend title 38, United States Code, to repeal the provision of law requiring termination of the Advisory Committee on Minority Veterans as of December 31, 2009; to the Committee on Veterans' Affairs.

H.R. 1108. An act to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products; to the Committee on Health, Education, Labor, and Pensions.

H.R. 1338. An act 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; to the Committee on Health, Education, Labor, and Pensions.

H.R. 2452. To amend the Federal Water Pollution Control Act to ensure that publicly owned treatment works monitor for and report sewer overflows, and for other purposes; to the Committee on Environment and Public Works.

H.R. 3021. To direct the Secretary of Education to make grants to State educational agencies for the modernization, renovation, or repair of public school facilities, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

H.R. 4255. An act to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to provide assistance to the Paralympic Program of the United States Olympic Committee, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 5057. To reauthorize the Debbie Smith DNA Backlog Grant Program, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

H.R. 5464. An act to direct the Attorney General to make an annual grant to the A Child Is Missing Alert and Recovery Center to assist law enforcement agencies in the rapid recovery of missing children, and for other purposes; to the Committee on the Judiciary.

H.R. 5569. To extend for 5 years the EB-5 regional center pilot program, and for other purposes; to the Committee on the Judiciary.

H.R. 5570. To amend the Immigration and Nationality Act with respect to the special immigrant nonminister religious worker program, and for other purposes; to the Committee on the Judiciary.

H.R. 6083. An act to authorize funding to conduct a national training program for State and local prosecutors. to the Committee on the Judiciary.

H.R. 6208. An act to designate the facility of the United States Postal Service located at 1100 Town and Country Commons in Chesterfield, Missouri, as the ''Lance Corporal Matthew P. Pathenos Post Office Building''; to the Committee on Homeland Security and Governmental Affairs.

H.R. 6221. An act to amend title 38, United States Code, to require the Secretary of Veterans Affairs to include in each contract the Secretary enters for the acquisition of goods and services a provision that requires the contractee to comply with the contracting goals and preferences for small business concerns owned or controlled by veterans, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 6225. An act to amend title 38, United States Code, relating to equitable relief with respect to a State or private employer and for other purposes; to the Committee on Veterans' Affairs.

H.R. 6295. To enhance drug trafficking interdiction by creating a Federal felony relating to operating or embarking in a submersible or semi-submersible vessel without nationality and on an international voyage; to the Committee on Commerce, Science, and Transportation.

H.R. 6309. An act to amend the Residential Lead-Based Paint Hazard Reduction Act of 1992 to define environmental intervention blood lead level and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 6382. An act to make technical corrections related to the Pension Protection Act of 2006, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

H.R. 6437. An act to designate the facility of the United States Postal Service located at 200 North Texas Avenue in Odessa, Texas, as the ''Corporal Alfred Mac Wilson Post Office''; to the Committee on Homeland Security and Governmental Affairs.

H.R. 6456. An act to provide for extensions of certain authorities of the Department of State, and for other purposes; to the Committee on Foreign Relations.

H.R. 6633. An act to evaluate and extend the basic pilot program for employment eligibility confirmation and to ensure the protection of Social Security beneficiaries; to the Committee on the Judiciary.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 296. Concurrent resolution expressing support for the designation of August 2008 as ''National Heat Stroke Awareness Month'' to raise awareness and encourage prevention of heat stroke; to the Committee on Health, Education, Labor, and Pensions.

H. Con. Res. 358. Concurrent resolution commending the members of the Nevada Army and Air National Guard and the Nevada Reserve members of the Armed Forces for their dedicated, unselfish, and professional service, commitment, and sacrifices to the State of Nevada and the United States during more than five years of deployments to and in support of Operation Iraqi Freedom and Operation Enduring Freedom; to the Committee on Armed Services.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 3406. A bill to restore the intent and protections of the Americans with Disabilities Act of 1990.

The following bills were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 2964. An act to amend the Lacey Act Amendments of 1981 to treat nonhuman primates as prohibited wildlife species under that Act, to make corrections in the provisions relating to captive wildlife offenses under that Act, and for other purposes.

H.R. 3548. An act to enhance citizen access to Government information and services by establishing plain language as the standard style for Government documents issued to the public, and for other purposes.

H.R. 5540. An act to amend the Chesapeake Bay Initiative Act of 1998 to provide for the continuing authorization of the Chesapeake Bay Gateways and Watertrails Network.

H.R. 6531. An act to amend chapter 13 of title 17, United States Code (relating to the vessel hull design protection), to clarify the definitions of a hull and a deck.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 3430. A bill to provide for the investigation of certain unsolved civil rights crimes, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with

accompanying papers, reports, and documents, and were referred as indicated:

EC–7354. A communication from the Deputy Under Secretary of Defense for Logistics and Materiel Readiness, transmitting, pursuant to law, a report entitled ''National Defense Stockpile Annual Materials Plan for Fiscal Year 2009 and 4 Years''; to the Committee on Armed Services.

EC–7355. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Illinois'' (FRL No. 8696-3) received on July 31, 2008; to the Committee on Environment and Public Works.

EC–7356. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Drinking Water: Regulatory Determinations Regarding Contaminants on the Second Drinking Water Contaminant Candidate List'' (FRL No. 8699-1) received on July 31, 2008; to the Committee on Environment and Public Works.

EC–7357. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Mississippi: Final Authorization of State Hazardous Waste Management Program'' (FRL No. 8699-7) received on July 31, 2008; to the Committee on Environment and Public Works.

EC–7358. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Outer Continental Shelf Air Regulations Update to Include New York State Requirements'' (FRL No. 8688-3) received on July 31, 2008; to the Committee on Environment and Public Works.

EC–7359. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Bacillus thuringiensis Vip3Aa Proteins in Corn and Cotton; Exemption from the Requirement of Tolerance'' (FRL No. 8374-2) received on July 31, 2008; to the Committee on Environment and Public Works.

EC–7360. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Difenoconazole; Pesticide Tolerances for Emergency Exemptions'' (FRL No. 8375-5) received on July 31, 2008; to the Committee on Environment and Public Works.

EC–7361. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Dodine; Pesticide Tolerances'' (FRL No. 8367-5) received on July 31, 2008; to the Committee on Environment and Public Works.

EC–7362. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Amendment to Massachusetts' State Implementation Plan for Transit System Improvements'' (FRL No. 8691-5) received on July 31, 2008; to the Committee on Environment and Public Works.

EC–7363. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Indiana'' (FRL No. 8698-7) received on July 31, 2008; to the Committee on Environment and Public Works.

EC–7364. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Texas, El Paso County Carbon Monoxide Redesignation to Attainment, and Approval of Maintenance Plan'' (FRL No. 8699-9) received on July 31, 2008; to the Committee on Environment and Public Works.

EC–7365. A communication from the Regulation Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare Program; Hospice Wage Index for Fiscal Year 2009'' (RIN0938-AP14) received on July 31, 2008; to the Committee on Finance.

EC–7366. A communication from the Regulation Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare Program; Inpatient Rehabilitation Facility Prospective Payment System for Federal Fiscal Year 2009'' (RIN0938-AP19) received on July 31, 2008; to the Committee on Finance.

EC–7367. A communication from the Regulation Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare Program; Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities for Fiscal Year 2009'' (RIN0938-AP11) received on July 31, 2008; to the Committee on Finance.

EC–7368. A communication from the Regulation Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled, ''Medicare Program; Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 2009 Rates; Payments for Graduate Medical Education for Affiliated Teaching Hospitals in Certain Emergency Situations; Changes to Disclosure of Physician Ownership in Hospitals and Physician Self-Referral Rules; and Collection of Information Regarding Financial Relationships Between Hospitals'' (RIN0938-AP15) received on July 31, 2008; to the Committee on Finance.

EC–7369. A communication from the Acting Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to the Case-Zablocki Act, 1 U.S.C. 112b, as amended, the report of the texts and background statements of international agreements, other than treaties (List 2008-121–2008-128); to the Committee on Foreign Relations.

EC–7370. A communication from the Secretary, Department of Health and Human Services, transmitting, pursuant to law, a report entitled, ''HHS Determination Concerning a Petition to Add Members to the Special Exposure Cohort under the Energy Employees Occupational Illness Compensation Program Act of 2000; Determination Concerning a Petition for Employees from Sandia National Laboratory, Livermore, California''; to the Committee on Health, Education, Labor, and Pensions.

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. 702. A bill to authorize the Attorney General to award grants to State courts to develop and implement State courts interpreter programs (Rept. No. 110–436).

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, with an amendment in the nature of a substitute:

S. 789. A bill to prevent abuse of Government credit cards (Rept. No. 110–437).

By Mr. BIDEN, from the Committee on Foreign Relations, with amendments:

S. 2166. A bill to provide for greater responsibility in lending and expanded cancellation of debts owed to the United States and the international financial institutions by low-income countries, and for other purposes (Rept. No. 110-438).

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

S. 2449. A bill to amend chapter 111 of title 28, United States Code, relating to protective orders, sealing of cases, disclosures of discovery information in civil actions, and for other purposes (Rept. No. 110–439).

S. 2840. A bill to establish a liaison with the Federal Bureau of Investigation in United States Citizenship and Immigration Services to expedite naturalization applications filed by members of the Armed Forces and to establish a deadline for processing such applications (Rept. No. 110–440).

By Mr. BIDEN, from the Committee on Foreign Relations, without amendment:

S. 3169. A bill to authorize United States participation in, and appropriations for the United States contribution to, the eleventh replenishment of the resources of the African Development Fund (Rept. No. 110–441).

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

S. 2533. A bill to enact a safe, fair, and responsible state secrets privilege Act (Rept. No. 110–442).

By Mr. DODD, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

S. 3445. An original bill to impose sanctions with respect to Iran, to provide for the divestment of assets in Iran by State and local governments and other entities, to identify locations of concern with respect to transshipment, reexportation, or diversion of certain sensitive items to Iran, and for other purposes (Rept. No. 110–443).

By Mr. BAUCUS, from the Committee on Finance:

Report to accompany S.J. Res. 41, A joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003 (Rept. No. 110–444).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. WYDEN:

S. 3418. A bill to prohibit discrimination in State taxation of multichannel video programming distribution services; to the Committee on Finance.

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 3419. A bill to amend title 38, United States Code, to direct the Secretary of Veterans Affairs to modernize the disability benefits claims processing system of the Department of Veterans Affairs to ensure the accurate and timely delivery of compensation to veterans and their families and survivors, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. WYDEN:

S. 3420. A bill to require the Federal Communications Commission to auction spectrum for a free and open access wireless service; to the Committee on Commerce, Science, and Transportation.

By Mr. CASEY:

S. 3421. A bill to amend the Internal Revenue Code of 1986 to increase the standard mileage rate for charitable purposes to the standard mileage rate established by the Secretary of the Treasury for business purposes; to the Committee on Finance.

By Mr. BROWN:

S. 3422. A bill to amend the Federal Food, Drug, and Cosmetic Act to provide for the establishment of a traceability system for food, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BROWN:

S. 3423. A bill to provide for equity in the award of military decorations and citations for service in the Armed Forces since March 20, 2003, and for other purposes; to the Committee on Armed Services.

By Mrs. MURRAY:

S. 3424. A bill to amend the Homeland Security Act of 2002 to clarify that matching funds are not required under the State Homeland Security Grant Program or the Urban Area Security Initiative; to the Committee on Homeland Security and Governmental Affairs.

By Mr. DODD (for himself, Mr. REED, Mr. KERRY, Mr. CARPER, Mrs. CLINTON, and Mr. BIDEN):

S. 3425. A bill to make effective the proposed rule of the Food and Drug Administration relating to sunscreen drug products, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KERRY (for himself, Mr. VOINOVICH, Mr. WHITEHOUSE, Mr. AKAKA, and Mr. DURBIN):

S. 3426. A bill to amend the Foreign Service Act of 1980 to extend comparability pay adjustments to members of the Foreign Service assigned to posts abroad, and to amend the provision relating to the death gratuity payable to surviving dependents on Foreign Service employees who die as a result of injuries sustained in the performance of duty abroad; to the Committee on Foreign Relations.

By Mr. WICKER (for himself, Mr. COCHRAN, Mr. MARTINEZ, and Mr. VITTER):

S. 3427. A bill to amend the Internal Revenue Code of 1986 to provide a credit for hurricane mitigation expenditures, and to provide a credit for the increased insurance premiums of certain homeowners as a result of hurricane events; to the Committee on Finance.

By Ms. STABENOW (for herself, Mr. VOINOVICH, and Mrs. DOLE):

S. 3428. A bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax to facilitate the accelerated development and deployment of advanced safety systems for commercial motor vehicles; to the Committee on Finance.

By Mr. SCHUMER (for himself, Mr. ENSIGN, Mr. FEINGOLD, and Mr. DODD):

S. 3429. A bill to amend the Internal Revenue Code to provide for an increased mileage rate for charitable deductions; to the Committee on Finance.

By Mr. COBURN:

S. 3430. A bill to provide for the investigation of certain unsolved civil rights crimes, and for other purposes; read the first time.

By Mr. REID (for Mr. KENNEDY (for himself, Mr. BINGAMAN, and Mr. SANDERS)):

S. 3431. A bill to establish expanded learning time initiatives, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CASEY (for himself, Mr. KENNEDY, and Mr. OBAMA):

S. 3432. A bill to amend title 38, United States Code, to improve the enforcement of the Uniformed Services Employment and Reemployment Rights Act of 1994, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. BIDEN (for himself, Mr. HAGEL, Mr. CASEY, Mr. VOINOVICH, and Mr. WEBB):

S. 3433. A bill to ensure that any agreement with Iraq containing a security commitment or arrangement is concluded as a treaty or is approved by Congress; to the Committee on Foreign Relations.

By Mr. DURBIN:

S. 3434. A bill to combat organized crime involving the illegal acquisition of retail goods for the purpose of selling those illegally obtained goods through physical and online retail marketplaces; to the Committee on the Judiciary.

By Mr. DORGAN (for himself, Mr. BAUCUS, Mr. TESTER, and Mr. CONRAD):

S. 3435. A bill to allow certain participants in the conservation reserve program to participate in the critical feed use program of the Secretary of Agriculture; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. WICKER (for himself and Mr. COCHRAN):

S. 3436. A bill to expand the eligible premium refund opportunities for persons who, as a result of new mapping data do not reside in a special flood hazard area; to the Committee on Banking, Housing, and Urban Affairs.

By Mrs. FEINSTEIN (for herself, Mr. ROCKEFELLER, Mr. WHITEHOUSE, Mr. HAGEL, Mr. FEINGOLD, and Mr. WYDEN):

S. 3437. A bill to limit the use of certain interrogation techniques, to require notification of the International Committee of the Red Cross of detainees, to prohibit interrogation by contractors, and for other purposes; to the Select Committee on Intelligence.

By Ms. LANDRIEU:

S. 3438. A bill to prohibit the use of funds for the establishment of National Marine Monuments unless certain requirements are met; to the Committee on Commerce, Science, and Transportation.

By Mr. SALAZAR (for himself, Mr. CRAPO, and Mr. WYDEN):

S. 3439. A bill to provide for duty free treatment of certain recreational performance outerwear, and for other purposes; to the Committee on Finance.

By Ms. SNOWE (for herself and Ms. KLOBUCHAR):

S. 3440. A bill to amend title 49, United States Code, to enhance aviation safety; to the Committee on Commerce, Science, and Transportation.

By Ms. SNOWE (for herself and Mrs. FEINSTEIN):

S. 3441. A bill to provide certain requirements for the siting, construction, expansion, and operation of liquefied natural gas import terminals, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. REED (for himself and Ms. SNOWE):

S. 3442. A bill to reauthorize the National Oilheat Reliance Alliance Act of 2000, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. VOINOVICH (for himself and Mr. BROWN):

S. 3443. A bill to amend the Federal Water Pollution Control Act to update a program to provide assistance for the planning, design, and construction of treatment works to intercept, transport, control, or treat municipal combined sewer overflows and sanitary sewer overflows, and to require the Administrator of the Environmental Protection Agency to update certain guidance used to develop and determine the financial capability of communities to implement clean water infrastructure programs; to the Committee on Environment and Public Works.

By Mrs. CLINTON:

S. 3444. A bill to provide for upgrading security at civilian nuclear facilities and of nuclear materials that could be used to construct a dirty bomb; to the Committee on Environment and Public Works.

By Mr. DODD:

S. 3445. An original bill to impose sanctions with respect to Iran, to provide for the divestment of assets in Iran by State and local governments and other entities, to identify locations of concern with respect to transshipment, reexportation, or diversion of certain sensitive items to Iran, and for other purposes; from the Committee on Banking, Housing, and Urban Affairs; placed on the calendar.

By Mr. MENENDEZ (for himself, Mr. SALAZAR, Mr. SMITH, Mr. LAUTENBERG, Mr. STEVENS, and Ms. STABENOW):

S. 3446. A bill to amend the Internal Revenue Code of 1986 to defer the tax on the gain on the sale of certain telecommunications and media businesses, and for other purposes; to the Committee on Finance.

By Ms. LANDRIEU:

S. 3447. A bill to reprogram $15,000,000 in savings in the Jackson Barracks military construction to the Department of the Interior for the Historic Preservation Fund of the National Park Service for the purpose of restoring Jackson Barracks to its pre-Hurricane Katrina status as a national historic treasure; to the Committee on Energy and Natural Resources.

By Ms. LANDRIEU:

S. 3448. A bill to reauthorize the Cane River National Heritage Area Commission and expand the boundaries of the Cane River National Heritage Area in the State of Louisiana; to the Committee on Energy and Natural Resources.

By Ms. LANDRIEU:

S. 3449. A bill to direct the Secretary of the Interior to study the suitability and feasibility of designating sites in the Lower Mississippi River Area in the State of Louisiana as a unit of the National Park System, and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. SMITH (for himself and Mr. FEINGOLD):

S. Res. 643. A resolution calling for greater dialogue between the Dalai Lama and the Government of China regarding rights for the people of Tibet, and for other purposes; to the Committee on Foreign Relations.

By Mr. BURR (for himself and Mrs. FEINSTEIN):

S. Res. 644. A resolution designating September 2008 as ''National Child Awareness Month'' to promote awareness of charities benefitting children and youth-serving organizations throughout the United States and recognizing efforts made by these charities and organizations on behalf of children and youth as a positive investment in the future of the United States; to the Committee on the Judiciary.

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

S. Res. 645. A resolution honoring the life of Anne Legendre Armstrong; to the Committee on the Judiciary.

By Mr. SHELBY (for himself and Mrs. LINCOLN):

S. Res. 646. A resolution recognizing and supporting the goals and ideals of National Runaway Prevention Month; to the Committee on Health, Education, Labor, and Pensions.

By Ms. MURKOWSKI (for herself, Mr. JOHNSON, Mrs. MURRAY, Mr. SPECTER, Mr. COLEMAN, Mr. STEVENS, and Mr. HATCH):

S. Res. 647. A resolution designating September 9, 2008, as ''National Fetal Alcohol Spectrum Disorders Awareness Day''; to the Committee on the Judiciary.

By Mr. DODD (for himself, Mr. LIEBERMAN, Mr. REED, and Mr. WHITEHOUSE):

S. Res. 648. A resolution recognizing the 50th anniversary of the crossing of the North Pole by the USS *Nautilus* (SSN 571) and its significance in the history of both our Nation and the world; to the Committee on Armed Services.

By Ms. CANTWELL (for herself and Mr. SMITH):

S. Res. 649. A resolution designating September 18, 2008, as ''National Attention Deficit Disorder Awareness Day''; to the Committee on the Judiciary.

By Mr. REED (for himself, Mr. BAUCUS, Mr. WHITEHOUSE, and Mr. TESTER):

S. Res. 650. A resolution recognizing the importance of National Neighbor Day, National Good Neighbor Day, and National Neighborhood Day; to the Committee on the Judiciary.

By Mr. NELSON of Florida (for himself, Mrs. BOXER, Mr. BROWN, Mr. CARDIN, Mr. CORNYN, Mrs. HUTCHISON, Ms. LANDRIEU, Mr. MARTINEZ, Ms. MIKULSKI, Mr. OBAMA, Mr. SESSIONS, Mr. SHELBY, Mr. VITTER, and Mr. VOINOVICH):

S. Res. 651. A resolution honoring the National Aeronautics and Space Administration on the 50th anniversary of its establishment; to the Committee on Commerce, Science, and Transportation.

ADDITIONAL COSPONSORS

S. 689

At the request of Mr. LUGAR, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 689, a bill to amend the Internal Revenue Code of 1986 to permanently extend and expand the charitable deduction for contributions of food inventory.

S. 771

At the request of Mr. HARKIN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 771, a bill to amend the Child Nutrition Act of 1966 to improve the nutrition and health of schoolchildren by updating the definition of ''food of minimal nutritional value'' to conform to current nutrition science and to protect the Federal investment in the national school lunch and breakfast programs.

S. 950

At the request of Ms. SNOWE, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 950, a bill to develop and maintain an integrated system of coastal and ocean observations for the Nation's coasts, oceans, and Great Lakes, to improve warnings of tsunami, hurricanes, El Nino events, and other natural hazards, to enhance homeland security, to support maritime operations, to improve management of coastal and marine resources, and for other purposes.

S. 999

At the request of Mr. COCHRAN, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 999, a bill to amend the Public Health Service Act to improve stroke prevention, diagnosis, treatment, and rehabilitation.

S. 1070

At the request of Mr. HATCH, the name of the Senator from North Carolina (Mrs. DOLE) was added as a cosponsor of S. 1070, a bill to amend the Social Security Act to enhance the social security of the Nation by ensuring adequate public-private infrastructure and to resolve to prevent, detect, treat, intervene in, and prosecute elder abuse, neglect, and exploitation, and for other purposes.

S. 1287

At the request of Mr. SMITH, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 1287, a bill to amend the Internal Revenue Code of 1986 to allow an offset against income tax refunds to pay for State judicial debts that are past-due.

S. 2227

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 2227, a bill to provide grants to States to ensure that all students in the middle grades are taught an academically rigorous curriculum with effective supports so that students complete the middle grades prepared for success in high school and postsecondary endeavors, to improve State and district policies and programs relating to the academic achievement of students in the middle grades, to develop and implement effective middle school models for struggling students, and for other purposes.

S. 2330

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 2330, a bill to authorize a pilot program within the Departments of Veterans Affairs and Housing and Urban Development with the goal of preventing at-risk veterans and veteran families from falling into homelessness, and for other purposes.

S. 2469

At the request of Mr. INOUYE, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 2469, a bill to amend the Communications Act of 1934 to prevent the granting of regulatory forbearance by default.

S. 2510

At the request of Mr. ISAKSON, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 2510, a bill to amend the Public Health Service Act to provide revised standards for quality assurance in screening and evaluation of gynecologic cytology preparations, and for other purposes.

At the request of Mr. BARRASSO, his name was added as a cosponsor of S. 2510, supra.

S. 2511

At the request of Mr. LEAHY, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 2511, a bill to amend the grant program for law enforcement armor vests to provide for a waiver of or reduction in the matching funds requirement in the case of fiscal hardship.

S. 2579

At the request of Mr. INOUYE, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 2579, a bill to require the Secretary of the Treasury to mint coins in recognition and celebration of the establishment of the United States Army in 1775, to honor the American soldier of both today and yesterday, in wartime and in peace, and to commemorate the traditions, history, and heritage of the United States Army and its role in American society, from the colonial period to today.

S. 2667

At the request of Mr. MENENDEZ, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 2667, a bill to direct the Attorney General to make an annual grant to the A Child Is Missing Alert and Recovery Center to assist law enforcement agencies in the rapid recovery of missing children, and for other purposes.

S. 2920

At the request of Mr. KERRY, the names of the Senator from Washington (Mrs. MURRAY) and the Senator from Tennessee (Mr. CORKER) were added as cosponsors of S. 2920, a bill to reauthorize and improve the financing and entrepreneurial development programs of the Small Business Administration, and for other purposes.

S. 3012

At the request of Mr. LEAHY, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 3012, a bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to extend the authorization of the Bulletproof Vest Partnership Grant Program through fiscal year 2012.

S. 3187

At the request of Mr. HAGEL, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 3187, a bill to establish a comprehensive interagency response to reduce lung cancer mortality in a timely manner.

S. 3208

At the request of Mr. CONRAD, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 3208, a bill to amend the Internal Revenue Code of 1986 to provide tax

incentives for clean coal technology, and for other purposes.

S. 3269

At the request of Mr. WYDEN, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 3269, a bill to require the Secretary of Commerce to establish an award program to honor achievements in nanotechnology, and for other purposes.

S. 3325

At the request of Mr. LEAHY, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 3325, a bill to enhance remedies for violations of intellectual property laws, and for other purposes.

S. 3337

At the request of Mr. ROBERTS, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 3337, a bill to require the Secretary of Agriculture to carry out conservation reserve program notice CRP-598, entitled the ''Voluntary Modification of Conservation Reserve Program (CRP) Contract for Critical Feed Use''.

S. 3362

At the request of Mr. KERRY, the names of the Senator from Michigan (Mr. LEVIN) and the Senator from Ohio (Mr. BROWN) were added as cosponsors of S. 3362, a bill to reauthorize and improve the SBIR and STTR programs, and for other purposes.

S. 3375

At the request of Mr. WYDEN, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 3375, a bill to prohibit the introduction or delivery for introduction into interstate commerce of novelty lighters, and for other purposes.

S. 3398

At the request of Mr. DURBIN, his name was added as a cosponsor of S. 3398, a bill to amend the Federal Food, Drug, and Cosmetic Act with respect to liability under State and local requirements respecting devices.

S. 3401

At the request of Mr. GRAHAM, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 3401, a bill to provide for habeas corpus review for terror suspects held at Guantanamo Bay, Cuba, and for other purposes.

S. 3406

At the request of Mr. HARKIN, the names of the Senator from North Carolina (Mrs. DOLE), the Senator from California (Mrs. BOXER), the Senator from California (Mrs. FEINSTEIN), the Senator from Minnesota (Ms. KLOBUCHAR), the Senator from Michigan (Ms. STABENOW), the Senator from Wisconsin (Mr. KOHL), the Senator from Arkansas (Mrs. LINCOLN), the Senator from New Jersey (Mr. MENENDEZ) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of S. 3406, a bill to restore the intent and protections of the Americans with Disabilities Act of 1990.

S. 3407

At the request of Mr. BURR, the names of the Senator from Georgia (Mr. ISAKSON) and the Senator from New York (Mrs. CLINTON) were added as cosponsors of S. 3407, a bill to amend title 10, United States Code, to authorize commanders of wounded warrior battalions to accept charitable gifts on behalf of the wounded members of the Armed Forces assigned to such battalions.

S. RES. 622

At the request of Mr. GRAHAM, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. Res. 622, a resolution designating the week beginning September 7, 2008, as ''National Historically Black Colleges and Universities Week''.

S. RES. 625

At the request of Mr. HAGEL, the names of the Senator from Wisconsin (Mr. FEINGOLD), the Senator from South Dakota (Mr. THUNE), the Senator from Montana (Mr. BAUCUS) and the Senator from Kansas (Mr. ROBERTS) were added as cosponsors of S. Res. 625, a resolution designating August 16, 2008, as National Airborne Day.

S. RES. 636

At the request of Mr. LIEBERMAN, the names of the Senator from Georgia (Mr. ISAKSON), the Senator from Arizona (Mr. KYL) and the Senator from Nevada (Mr. ENSIGN) were added as cosponsors of S. Res. 636, a resolution recognizing the strategic success of the troop surge in Iraq and expressing gratitude to the members of the United States Armed Forces who made that success possible.

AMENDMENT NO. 4979

At the request of Mr. NELSON of Florida, the names of the Senator from Maine (Ms. COLLINS) and the Senator from Texas (Mrs. HUTCHISON) were added as cosponsors of amendment No. 4979 intended to be proposed to S. 3001, an original bill to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DODD (for himself, Mr. REED, Mr. KERRY, Mr. CARPER, Mrs. CLINTON, and Mr. BIDEN):

S. 3425. A bill to make effective the proposed rule of the Food and Drug Administration relating to sunscreen drug products, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I rise today along with Senators JACK REED, JOHN KERRY, TOM CARPER, HILLARY RODHAM CLINTON, and JOE BIDEN to introduce the Sunscreen Labeling Protection Act of 2008, or the SUN Act. I thank them for their support of this legislation and have enjoyed working with them on the issue of sunscreen labeling. This is an issue I have been working on for more than a decade. I also want to thank the many outside organizations who support this legislation including the American Cancer Society, the Melanoma Research Foundation, and many others as well as the leading U.S. manufacturers of sunscreen, Banana Boat and Hawaiian Tropic.

As we head into yet another steamy, sweltering summer locally in Washington, DC, and as Americans throughout the country hit the outdoors to enjoy a relaxing time at beaches, backyard barbeques and parks, we cannot forget how important it is to protect our skin from the sun's damaging rays.

However, I am profoundly disappointed to report that yet another summer is passing us by without adequate sunscreen labeling to protect consumers from harmful ultraviolet radiation, including UVA and UVB. Americans are being left in the lurch by the inaction of the Food and Drug Administration, which has failed to issue comprehensive and consistent standards for measuring and labeling sunscreen products for their protective value and for guarding against false claims on sunscreen products.

Americans may be surprised to learn that the Sun Protection Factor, SPF, number on the sunscreen they buy at their local convenience store or supermarket measures only the level of UVB protection provided by the sunscreen. It does not include a measure of the level of UVA protection. UVB has long been associated with sunburn while UVA has been recognized as a deeper penetrating radiation that contributes to skin cancer. While many products claim to offer UVA protection, that claim is not backed by enforceable, FDA-recommended standards by which those claims can be substantiated.

The FDA's standards for sunscreen testing and labeling lag 30 years behind our knowledge of the dangers of sun exposure. Research tells us that individual risk of melanoma, the most serious form of skin cancer, is associated with the intensity of sunlight that a person receives over a lifetime. In 2008, it is estimated there will be more than 1 million new cases of skin cancers and 62,480 new cases of melanoma, the deadliest form of skin cancer. Tragically, there will be as many as 8,420 deaths from melanoma this year.

Many sunscreen products carry claims that they protect against cancer-causing UVA rays, but without FDA action to set standards for testing and labeling, these claims can't be validated. Indeed, an analysis released earlier this summer found that many sunscreen products have misleading labels that make unsubstantiated claims.

Senator JACK REED of Rhode Island and I, along with many of my colleagues on both sides of the aisle, have repeatedly urged the FDA—for over a decade now—to follow through with its

development of standards. We have written letters to the FDA dating back more than ten years, we have made phone calls, we have asked questions at hearings, and we even directed the FDA to issue final labeling for UVA and UVB in the fiscal year 2006 Agriculture Appropriations bill.

The American Cancer Society, the American Academy of Dermatology, and numerous other organizations speak of the value of using sunscreen to protect our skin from damaging UVA and UVB rays as an important step in preventing skin cancer. For years, we have heard their repeated cries for industry-wide standards that will help Americans protect themselves from a preventable cause of cancer. And still there is no final action by the FDA.

The public deserves better. If you take one look at the startling numbers of Americans who will be diagnosed with skin cancer this year and who will likely die from this disease, it is clear that the public must know that what they read on the label of a sunscreen product represents a scientifically valid claim of protection from both UVA and UVB radiation.

Almost a year ago, the FDA issued a proposed rule that would set standards for testing and labeling sunscreen that includes UVA and UVB. I applaud this progress. It was a long time in coming. But I must reiterate that until the proposed rule is finalized, consumers and manufacturers lack an enforceable, consistent and comprehensive standard for testing and labeling of sunscreen products.

That is why I am introducing the SUNscreen Labeling Protection Act of 2008, or the SUN Act. This simple, straightforward bill gives the FDA 180 days from the date of enactment to finalize the proposed rule for comprehensive labeling, including formulation, testing and labeling requirements for both UVA and UVB, after which point the proposed rule would become effective.

I cannot emphasize enough the importance of this issue. The public continues to be misled by false claims that cannot be effectively challenged because there are no enforceable FDA standards for measuring and labeling UVA protection.

If the FDA would finalize its proposed rule including UVA and UVB protection, this legislation would not be necessary. But, a year and an entire summer season has nearly passed since the rule was proposed, as have decades of inaction prior to the proposed rule even being issued. All the while, consumers have gone without the information and protection they need which is what makes this legislation so critical.

I urge my colleagues to support this critically important bill.

Mr. President, I ask unanimous consent that letters of support be printed in the RECORD.

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

CANCER ACTION NETWORK,
July 30, 2008.

Hon. CHRISTOPHER J. DODD,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR DODD: On behalf of the volunteers and supporters of the American Cancer Society Cancer Action Networks℠ (ACS CAN), the partner advocacy organization of the American Cancer Society, we want to express our thanks for your leadership in introducing the Sunscreen Labeling Protection Act of 2008 (SUN Act). The SUN Act will direct the Food and Drug Administration (FDA) to issue final regulations related to labeling for sunscreen products.

Skin cancer is the most common of all cancer types with more than one million skin cancer diagnoses each year in the United States. Because exposure to ultraviolet (UV) radiation from the sun is the most important known risk fact for skin cancers, we believe this long-awaited proposal from the FDA will better inform consumers on the value and limits of sunscreen use.

We have provided extensive comments on the FDA proposed rules to ensure that the new regulations will require the most accurate and user-friendly presentation of sun protection possible on sunscreen products. The majority of skin cancers are caused primarily by UVB rays, and we know that UV exposure from the sun increases the risk of skin cancer, premature skin aging and other skin damage. Therefore, it is important to decrease UV exposure by wearing protective clothing, seeking shade whenever possible, and using a sunscreen with a high enough SPF Value to protect against some level of both UVB and UVA rays. ACS CAN believes that by raising the highest labeled sun protection factor (SPF) Value from 30 to 50 and including a UVA protection measure, consumers will be able to better select their protection level.

ACS CAN views cancer prevention as the most important attribute of sunscreens, and there is now convincing evidence that consistent use of appropriate sunscreens will result in the prevention of squamous cell carcinoma of the skin and may lower melanoma risk. Hence it is our strong conviction that all sunscreen packages must note the importance of applying sunscreen before going into the sun and reapplying as needed. We hope the new FDA regulations will help to achieve this by requiring a principle display panel on packages that is simple and easy for consumers to read, so they have clear directions on sun safety to make the most appropriate choice about protection levels.

Again, ACS CAN is encouraged that the SUN Act may finally lead to implementation of new regulations related to sunscreen labeling, and we look forward to working with Congress and the FDA to provide consumers with the most accurate and forthright information regarding sun protection and sunscreen use. If we can ever be of assistance or provide information, please contact Kelly Green Kahn, Associate Director, Federal Relations.

Sincerely,

DANIEL E. SMITH,
President,
DICK WOODRUFF,
Senior Director, Federal Relations.

CITIZENS FOR SUN PROTECTION,
Washington, DC, July 30, 2008.

Hon. CHRISTOPHER DODD,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR DODD, On behalf of the Citizens for Sun Protection, an organization of parents, cancer survivors, healthcare professionals, business advocates and community leaders, joined together to advocate for stronger standards for sunscreen protection, I am writing you to express our strong support for the Sunscreen Labeling Protection Act of 2008 (SUN Act). This legislation would provide for the enactment within 180 days of the sunscreen standards rule that was first proposed by the Food and Drug Administration (FDA) in August 2007, and has yet been acted upon. We applaud your leadership in advancing federal sunscreen standards to protect Americans against cancer-causing UVB and UVA rays.

The delay in upgrading U.S. sunscreen standards, which has dragged on for now close to 20 years, can no longer be tolerated. Several other countries, including the European Union, already have strong sunscreen standards that provide protection from both UVA and UVB rays for their citizens. Your legislation will assure that the FDA issues final standards for UVA and UVB protection within 180 days of enactment and thus provide Americans with vitally important protection against skin cancer, premature aging, and skin damage.

A comprehensive FDA rule would require that sunscreen manufacturers properly label products so consumers will know the level of protection provided in the sunscreen they use for themselves and their families. Today, the average American using sunscreens that are commercially available in this country mistakenly believes that the product is providing equal protection for both UVB and UVA exposure. In reality Sun Protection Factor designations only apply only to UVB rays, those that primarily cause sunburn, and do not protect against UVA rays which cause skin cancer and other skin damage.

Compelling facts drive the need for change: According to the American Cancer Society one million new cases of skin cancer will be diagnosed in the United States this year and over 10,000 Americans will die from the disease. Every year the FDA proposal is delayed leaves our citizens at increased risk. It is critical to the health and welfare of the U.S. public to have access to strong, protective sunscreens they can trust. On behalf of the Citizens for Sun Protection, I wish to once again affirm our strong support for the SUN Act. We applaud your efforts to establish strong standards and an accurate labeling system for UVA and UVB protection in the United States.

Sincerely,

ROBERT F. HURLEY,
Executive Director.

ENVIRONMENTAL WORKING GROUP,
Washington, DC, July 30, 2008.

Hon. CHRISTOPHER J. DODD,
Chair, Subcommittee on Children and Families, Committee on Health, Education, Labor and Pensions, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As the summer sun is upon us, we are again reminded of the need to ensure that sunscreens protect consumers from the damaging rays of both ultraviolet A (UVA) and ultraviolet B (UVB) radiation. The Food and Drug Administration first proposed to set safety standards in 1978, yet failed to act. That is why EWG supports the Sunscreen Labeling Protection Act of 2008, The SUN Act, which would require FDA to finalize sunscreen safety standards within 6 months, ending 30 years of delay.

The need for these standards is clear. A recent EWG study found that 85 percent of sunscreens that we tested do not offer enough protection from UV rays, are made with potentially harmful ingredients, or have not been tested for safety. Many products on the market present obvious safety and effectiveness concerns, including one of every seven that does not protect from UVA radiation. Overall we identified 143 products that offer

very good sun protection with ingredients that present minimal health risks to users. Many sunscreens: lack UVA protection; break down in the sun; make questionable product claims, i.e. ''waterproof''; contain nano-scale materials that raise questions; and absorb into the blood.

These problems are aggravated by the fact that FDA has not finalized comprehensive sunscreen safety standards, called the ''Sunscreen Monograph,'' they began drafting 30 years ago. It took FDA 29 years to propose a Sunscreen Monograph. It has been nearly a year and it has yet to finalize the Monograph. EWG hopes it will do so quickly, but after 30 years of delay, we must ensure consumers get the protections they believe they are getting.

We commend you for your continued leadership in this area and the introduction of The SUN Act. We look forward to working with you to ensure its quick passage.

Sincerely,

RICHARD WILES
Executive Director.

By Mr. REID (for Mr. KENNEDY (for himself, Mr. BINGAMAN, and Mr. SANDERS)):

S. 3431. A bill to establish expanded learning time initiatives, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. BINGAMAN. Mr. President, I rise today, along with Senators KENNEDY and SANDERS, to introduce the Time for Innovation Matters in Education, or TIME Act, of 2008. This bill would improve and expand students' instructional time, while ensuring rigorous standards, as a means to help close the academic achievement gap that exists for so many of our disadvantaged students.

The fundamental principle underlying this bill is that the amount of instructional time provided by the vast majority of school calendars is simply inadequate for today's students and teachers. Teachers need more time to plan and deliver instruction, and students need more time for 21st century learning.

The demands on 21st century learners reflect the rapid increase in technological advances that we have all experienced in the last 30 or 40 years. Twenty first century learning demands an increase in the rigor of mathematics and science education, and the acquisition of subject area knowledge in areas that simply did not exist years ago, such as computer literacy. These increased demands should not be met at the expense of ignoring other subjects such as social studies, art, and physical education. Yet, these other areas are often ignored to allow for time for some of the major academic subjects. That is the consequence of failing to match the gradual increase in educational demands with a corresponding increase in instructional time.

Instead, here we are in the 21st century, continuing to adhere to a school calendar that was established over 100 years ago, and which was designed to accommodate a predominantly agricultural society. In nearly every State, the school calendar is based on approximately 180 or fewer instructional days, or on approximately 1000 instructional hours, per school year. This means that American students are spending fewer than 20 percent of their waking hours in school.

In the recent National Research Council report entitled, How People Learn, the authors comment on the importance of being realistic about the amount of time it takes to learn complex subject matter. Simply put, they note that ''significant learning takes major investments of time.'' The TIME Act is an initial investment that will provide teachers and students with the expanded opportunities they need to achieve high quality instruction and learning. We know that time needs are significant if our students are to achieve a 21st century education.

Although all students are likely to benefit from expanded learning time, we must prioritize these opportunities for students who are most at risk for poor academic achievement. International reports like the PISA study demonstrate that although American students, as a group, have poor academic achievement relative to students in other industrialized nations, this disparity is most pronounced for students that are overrepresented among our Nation's poor. In fact, the 2006 PISA report shows that achievement scores for White, non-Hispanic students meet or exceed average scores reported across participating nations, whereas the average scores for Black or Hispanic students are well below that average.

Likewise, although research has demonstrated that all students are at risk for losing educational gains during the extended summer breaks that are currently the norm for most schools, children from low income households experience significantly greater achievement losses during summer breaks because they lack opportunities to attend the quality summer programs available to their less disadvantaged peers. Each year, this disparity contributes to the growing achievement gap. Researchers have shown us that these out-of-school experiences account for most of the achievement difference observed by 9th grade, which in turn influences when and whether students will graduate from high school and attend postsecondary school. Investing in more time during the school year can help to diminish these achievement gaps, improve graduation rates, and make a lasting difference in these students' lives.

But effective expanded learning opportunities require more than just more time. The time must be well spent. Students must be appropriately engaged in their learning, and teachers must have the training and support to use the longer school time effectively. Researchers have identified that expanded learning time benefits teachers, by providing more opportunities for cooperative planning and more time to individualize instruction. Involved students and teachers are critical to successful expanded learning time programs, and both benefit from effective programming.

States have begun to explore expanded learning programs, and have demonstrated their effectiveness. In Massachusetts, 10 schools converted their calendars to expand the mandatory number of school days and the number of hours within a school day. Outcomes include not only increased student achievement, but greater school satisfaction among parents, teachers, and students. In my own State of New Mexico, expanded learning initiatives have been pursued, in the form of longer school days or additional school days throughout the year. Early reports demonstrate increased achievement in math and reading, beyond grade-level expectations. Unfortunately, the funds available for these initiatives are limited to voluntary participation. We must make these programs become a regular part of the school day for all students and teachers, particularly those who are greatest risk for academic failure.

Most districts and State educational agencies do not have the capacity or infrastructure to guide, support, and fund expanded learning day programs, but good models for turning around low-performing schools do exist. Federal support can be used to build States' and schools' capacity based on evidence from such models.

Towards this goal, the TIME Act will: provide incentives for States and local educational agencies to develop plans for research-based, sustainable, and replicable expanded learning programs, for high-priority schools, with a focus on increasing rigorous and varied instructional opportunities for students and teachers; allow local educational agencies to determine appropriate objectives of their extended learning programs, such as increasing math and science scores for all students, enhance art or physical education, or increase academic English proficiency for English language learners; encourage States to take a leadership role and deliver technical assistance to schools that implement such programs; encourage schools to form partnerships with organizations that have successful track records in supporting or delivering effective expanded learning programs; and promote research on expanded learning program implementation, through local, State, and national data collection efforts. The results of these evaluations can inform best practices for future delivery of expanded learning models to additional schools.

I would like to thank Chairman KENNEDY for his leadership on this legislation, and for his ongoing commitment to enhancing educational opportunities for all Americans; particularly our most disadvantaged youths. Moreover, Senator KENNEDY's State of Massachusetts is a leader in school-wide expanded learning initiatives. Massachusetts has demonstrated that expanded

learning enhances students' success, and it has done so in formerly struggling schools in some of the State's poorest school districts.

The TIME Act expands upon these models of success by promoting similar initiatives across the country. I hope that this legislation will be incorporated into reauthorization of the Elementary and Secondary Education Act, and I urge my colleagues to support it.

Like my colleagues Senator KENNEDY and SANDERS, I believe that all students deserve the time needed for a quality education. I also believe that all schools should expand well beyond their current limited calendar, especially if America is to maintain and increase its competitive edge in the global economy. We must invest in a systematic approach to improving schools so that every child graduates prepared for success. The TIME Act is an initial investment toward this goal.

By Mr. BIDEN (for himself, Mr. HAGEL, Mr. CASEY, Mr. VOINOVICH, and Mr. WEBB):

S. 3433. A bill to ensure that any agreement with Iraq containing a security commitment or arrangement is concluded as a treaty or is approved by Congress; to the Committee on Foreign Relations.

Mr. BIDEN. Today I join a bipartisan group of Senators in introducing the Iraq Security Agreement Act of 2008. This bill, consistent with the Constitution of the United States, prohibits the Bush administration from entering into a binding security agreement with Iraq without the approval of Congress. It would also prohibit the obligation of any funds to implement such an agreement.

I regret that I am compelled to introduce this legislation. If the President had embarked on these negotiations in a more responsible manner—by being clear about the objective, by ensuring that the agreements would not tie the hands of the next administration, by actively consulting with Congress as a partner in the process—this bill would be unnecessary. But the Administration has done none of these things, and so my colleagues and I want to ensure that Congress, and thus the American people, is brought into the process.

Let me take a step back and summarize how we got to this point. From October 2003 until the present day, the American military presence in Iraq has been authorized under international law through a series of UN Security Council Resolutions. Last November, President Bush and Prime Minister Maliki signed a ''Declaration of Principles,'' which set out a framework for our countries to negotiate, by yesterday—July 31, 2008—agreements governing cooperation in the political, economic and security spheres. The Declaration indicated that the two countries would not seek to renew the United Nations mandate for American troops in Iraq past December 31, 2008. Among other things, the Declaration contemplates ''providing security assurances and commitments to the Republic of Iraq to deter foreign aggression against Iraq'' and supporting Iraq ''in its efforts to combat all terrorist groups,'' including Al-Qaeda, Saddamists, and ''all other outlaw groups regardless of affiliation.'' In other words, all the folks fighting in Iraq and killing each other.

The Declaration may result in two pacts. One would be a ''Strategic Framework Agreement'' that will ''set the broad parameters of the overall bilateral relationship in every field,'' according to the U.S. Ambassador to Iraq, Ryan Crocker. This might be better titled ''What the United States will do for Iraq,'' because it consists mostly of a series of promises that flow in one direction—promises by the United States to a sectarian government that has thus far failed to reach the political compromises necessary to build a stable country.

The second agreement is a ''Status of Forces Agreement'' or SOFA, governing the presence of U.S. forces in Iraq, including their entry into the country and the immunities to be granted to them under Iraqi law. The administration claims that this agreement is mostly ''routine'' because we have SOFAs with over 90 countries around the globe. But conditions our soldiers face in Iraq are far from ''routine,'' despite recent improvements in security. Moreover, this SOFA would be much broader than the typical SOFA, from what we know. It would provide us with access to bases from which our military would operate, provisions that are usually in a separate facilities or ''basing'' agreement. This SOFA would also deal with contractor immunity, would permit U.S. forces to engage in combat operations in Iraq, and would provide authority for detaining insurgents. This is not a typical SOFA.

One of these agreements will reportedly contain a ''security arrangement''—a pledge by the United States to consult on next steps if Iraq is threatened. The Administration suggests that such an agreement is unremarkable, and that it does not bind the United States. But at a time when we have over 100,000 troops on the ground, an expansive program to train and equip Iraqi forces, and multiple U.S. military facilities, the pledge is, in reality, little different from a binding security commitment. Certainly, the government of Iraq and its people will perceive that we are signing up to defend Iraq against external threats.

Yesterday's deadline has apparently not been met. The New York Times reports, however, that the Bush administration and Iraqi government are close to an agreement. But Congress still remains largely in the dark.

We have not seen draft language. We do not definitively know which portions of the agreement will be binding, and which will not be. We are not in a position to evaluate whether the agreement will create obligations—either legal or political—that will constrain the next administration, whether Democratic or Republican. The President cannot make such a sweeping commitment on his own authority. Congress must grant approval. The legislation we introduce today requires that Congress be made part of the process.

I have often stated that no foreign policy can be sustained without the informed consent of the American people. More than 5 years ago, President Bush went to war in Iraq without gaining that consent—by overstating the intelligence and understating the difficulty, cost and duration of the mission.

In the final months of his term, President Bush is once again acting without the informed consent of the American people, putting us on a course to commit the Nation to a new phase of a long war in Iraq, and thereby bind his successors to his vision of U.S. policy in Iraq. By these agreements, the President will make it harder for his successor to change course.

Let me be clear. I support the concept of a Status of Forces Agreement with Iraq. But not at the cost of limiting our operational latitude or making security commitments—legal or political—that are not approved by Congress.

Administration officials have indicated that the Iraqi government is resisting the inclusion of key provisions that U.S. forces need in order to operate in Iraq. Given the difficulty of securing Iraq's consent to the broad authorities that the United States now has by virtue of the U.N. Security Council Resolutions, I believe the best option for the United States at this juncture is to seek an extension of the current United Nations Security Counsel resolution for Iraq.

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. 3433

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 ''Iraq Security Agreement Act of 2008''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) On November 26, 2007, President George W. Bush and Prime Minister of Iraq Nouri al-Maliki signed the Declaration of Principles for a Long-Term Relationship of Cooperation and Friendship Between the Republic of Iraq and the United States of America (in this Act referred to as the ''Declaration of Principles''), with the goal of concluding a final agreement or agreements between the United States and Iraq by July 31, 2008, ''with respect to the political, cultural, economic, and security spheres.''

(2) The Declaration of Principles contemplates the United States ''providing security assurances and commitments to the Republic of Iraq to deter foreign aggression.''

(3) In 1992, pursuant to section 1457 of the National Defense Authorization Act for Fiscal Year 1991 (50 U.S.C. 404c), the executive branch submitted a report to Congress on then-existing security commitments and arrangements.

(4) The report described in paragraph (3) defined a ''security commitment'' as an ''obligation, binding under international law, of the United States to act in the common defense in the event of an armed attack on that country.'' The report noted that all current security commitments of the United States are ''embodied in treaties which receive the advice and consent of the Senate.''

(5) The report defined a ''security arrangement'' as a ''pledge by the United States to take some action in the event of a threat to that country's security. Security arrangements typically oblige the United States to consult with a country in the event of a threat to its security. They may appear in legally-binding agreements, such as treaties or executive agreements, or in political documents, such as policy declarations by the President, Secretary of State or Secretary of Defense.''

(6) The United States Ambassador to Iraq, Ryan Crocker, has stated that the agreements to be concluded as anticipated by the Declaration of Principles will ''deal with the status of U.S. and coalition forces in Iraq past 2008'' and ''set the broad parameters of the overall bilateral relationship in every field''.

(7) On November 26, 2007, Assistant to the President and Deputy National Security Advisor for Iraq and Afghanistan, Lieutenant General Douglas Lute, stated, ''We don't anticipate now that these negotiations [under the Declaration of Principles] will lead to . . . formal inputs from Congress.''

SEC. 3. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) any agreement that sets forth the ''broad parameters of the overall bilateral relationship [as between the United States and the Republic of Iraq] in every field,'' particularly one that includes a security commitment or arrangement provided to the Republic of Iraq by the United States, would result in serious military, political, and economic obligations for the United States, and thus, consistent with past practice, should involve a joint decision by the executive and legislative branches; and

(2) a short-term extension of the mandate of the Multi-National Force in Iraq (currently provided by United Nations Security Council Resolution 1790 (2007)), would, in concert with Iraqi law, provide United States forces with the authorities, privileges, and immunities necessary for those forces to carry out their mission in Iraq.

SEC. 4. ANNUAL REPORT ON SECURITY AGREEMENTS.

(a) REPORTS REQUIRED.—Not later than 180 days after date of the enactment of this Act, and every February 1 thereafter, the President shall submit to the appropriate congressional committees a report (in both classified and unclassified form) on United States security commitments to, and arrangements with, other countries.

(b) CONTENT.—Each report submitted under subsection (a) shall include the following:

(1) The text, and a description, of each security commitment to, or arrangement with, one or more other countries, whether based upon—

(A) a formal document (including a mutual defense treaty, a status of forces agreement, a pre-positioning arrangement or agreement, an access agreement, or a non-binding declaration or letter); or

(B) an expressed policy, whether expressed orally or in writing.

(2) An assessment of the need to continue, modify, or discontinue each of those commitments and arrangements in view of the changing international security situation.

SEC. 5. CONSULTATION WITH CONGRESS.

Not later than 30 days after the date of the enactment of this Act, the Secretary of State and the Secretary of Defense shall consult with the appropriate congressional committees about the negotiations pursuant to the Declaration of Principles. After the initial consultation, the Secretary of State and the Secretary of Defense shall keep such committees fully and currently informed regarding the status of the negotiations. Prior to finalizing any agreement that includes a security commitment or security arrangement with Iraq, the Secretary of State should provide the text of the agreement to the appropriate congressional committees.

SEC. 6. PROHIBITIONS.

(a) PROHIBITION ON ENTRY INTO FORCE OF CERTAIN AGREEMENTS.—No agreement containing a security commitment to, or security arrangement with, the Republic of Iraq, may enter into force except pursuant to Article II, section 2, clause 2 of the Constitution of the United States (relating to the making of treaties) or unless authorized by a law enacted on or after the date of the enactment of this Act pursuant to Article I, section 7, clause 2 of the Constitution (relating to the enactment of laws).

(b) PROHIBITION ON USE OF FUNDS.—No funds may be obligated or expended to implement an agreement containing a security commitment to, or security arrangement with, the Republic of Iraq, unless it enters into force pursuant to Article II, section 2, clause 2 of the Constitution of the United States or is authorized by a law enacted on or after the date of the enactment of this Act pursuant to Article I, section 7, clause 2 of the Constitution.

(c) POINT OF ORDER.—It shall not be in order for either House of Congress to consider any bill, resolution, amendment, or conference report that provides budget authority for the implementation of an agreement entered into in contravention of subsection (a).

SEC. 7. APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.

In this Act, the term ''appropriate congressional committees'' means—

(1) the Committee on Armed Services of the Senate;

(2) the Committee on Foreign Relations of the Senate;

(3) the Committee on Armed Services of the House of Representatives; and

(4) the Committee on Foreign Affairs of the House of Representatives.

By Mr. DURBIN:

S. 3434. A bill to combat organized crime involving the illegal acquisition of retail goods for the purpose of selling those illegally obtained goods through physical and online retail marketplaces; to the Committee on the Judiciary.

Mr. DURBIN. Mr. President, I rise to discuss legislation that I am introducing today, the it Combating Organized Retail Crime Act of 2008.

This bill addresses a persistent and growing problem that costs retailers billions of dollars and poses serious health and safety risks for consumers. Organized retail crime involves the coordinated theft of large numbers of items from retail stores with the intent to resell those items. Typically, crime organizations hire teams of professional shoplifters to steal over-the-counter drugs, health and beauty aids, designer clothing, razor blades, baby formula, electronic devices and other items from retail stores. Using sophisticated means for evading anti-theft measures, and often the assistance of employees at stores, the thieves target 10–15 stores per day. They steal thousands of dollars worth of items from each store and deliver the items to a processing and storage location. There, teams of workers sort the items, remove anti-theft tracking devices, and remove labels that identify the items with a particular store. In some instances, they change the expiration date, replace the label with that of a more expensive product, or dilute the product and repackage the modified contents in seemingly-authentic packaging. The items are then stored in a warehouse, often under poor conditions that result in the deterioration of the contents.

Organized retail crime rings typically sell their stolen merchandise in different markets, including flea markets, swap-meets, and online auction sites. Online sales are of particular concern, since the internet reaches a worldwide market and allows sellers to operate anonymously and maximize return. A growing number of multi-million dollar organized retail crime cases involve internet sales. For example, in Florida recently law enforcement agents arrested 20 people in a $100 million case involving the sale of stolen health and beauty aids on an online auction site and at flea markets.

Organized retail crime has a variety of harmful effects. Retailers and the FBI estimate that it costs retailers billions of dollars in revenues and costs states hundreds of millions of dollars in sales tax revenues. With respect to certain products, such as baby formula and diabetic test strips, improper storage and handling by thieves creates a serious public safety risk when the products are resold. The proceeds of organized retail crime are often used to finance other forms of criminal behavior, including gang activity and drug trafficking.

The Combating Organized Retail Crime Act would address this problem in several ways. First, it would toughen the criminal code's treatment of organized retail crime by refining certain offenses to capture conduct that is currently being committed by individuals engaged in organized retail crime, and by requiring the U.S. Sentencing Commission to consider relevant sentencing guideline enhancements.

Second, the bill would require physical retail marketplaces, such as flea markets, and online retail marketplaces, such as auction websites, to review the account of a seller and file a suspicious activity report with the Justice Department when presented with documentary evidence showing that the seller is selling items that were illegally obtained. If the physical or online retail marketplace is presented

with clear and convincing evidence that the seller is engaged in such illegal activity, it must terminate the activities of the seller. This requirement will lead to greater cooperation between retail marketplaces, retailers and law enforcement, and will result in an increased number of organized retail crime prosecutions.

Third, the bill would require high-volume sellers on online auction sites (meaning sellers that have obtained at least $10,000 in annual gross revenues on the site) to display a physical address, post office box, or private mail box registered with a commercial mail receiving agency. This requirement will help online buyers get in touch with sellers, and assist law enforcement agents who wish to identify people who may be selling stolen goods online. It is analogous to a provision in the federal CAN–SPAM Act, which also requires persons who send mass emails to disclose their physical addresses.

This legislation has broad support in the retail industry in my home state of Illinois and nationwide. It is supported by the Illinois Retail Merchants Association, the National Retail Federation, the Retail Industry Leaders Association, the Food Marketing Institute, the National Association of Chain Drug Stores, and the Coalition to Stop Organized Retail Crime, whose members include such retail giants as Home Depot, Target, Wal-Mart, Safeway, Walgreens, and Macy's.

In summary, the Combating Organized Retail Crime Act addresses a serious problem that hurts businesses that are struggling to survive in a weak economy, and that harms consumers who unknowingly purchase stolen items that have been subjected to tampering. It heightens the penalties for organized retail crime, shuts down criminals who are selling stolen goods, and places valuable information about illegal activity into the hands of law enforcement. This bill is a big step forward in the fight against a nationwide problem, and I urge my colleagues to support it.

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. 3434

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 ''Combating Organized Retail Crime Act of 2008''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Organized retail crime involves the coordinated acquisition of large volumes of retail merchandise by theft, embezzlement, fraud, false pretenses, or other illegal means from commercial entities engaged in interstate commerce, for the purpose of selling or distributing such illegally obtained items in the stream of commerce. Organized retail crime is a growing problem nationwide that costs American companies and consumers billions of dollars annually and that has a substantial and direct effect upon interstate commerce.

(2) The illegal acquisition and black-market sale of merchandise by persons engaged in organized retail crime result in an estimated annual loss of hundreds of millions of dollars in sales and income tax revenues to State and local governments.

(3) The illegal acquisition, unsafe tampering and storage, and unregulated redistribution of consumer products such as baby formula, over-the-counter drugs, and other items by persons engaged in organized retail crime pose a health and safety hazard to consumers nationwide.

(4) Investigations into organized retail crime have revealed that the illegal income resulting from such crime often benefits persons and organizations engaged in other forms of criminal activity, such as drug trafficking and gang activity.

(5) Items obtained through organized retail crime are resold in a variety of different marketplaces, including flea markets, swap meets, open-air markets, and Internet auction websites. Increasingly, persons engaged in organized retail crime use Internet auction websites to resell illegally obtained items. The Internet offers such sellers a worldwide market and a degree of anonymity that physical marketplace settings do not offer.

SEC. 3. OFFENSES RELATED TO ORGANIZED RETAIL CRIME.

(a) TRANSPORTATION OF STOLEN GOODS.—The first undesignated paragraph of section 2314 of title 18, United States Code, is amended by inserting after ''more,'' the following: ''or, during any 12-month period, of an aggregate value of $5,000 or more during that period,''.

(b) SALE OR RECEIPT OF STOLEN GOODS.—The first undesignated paragraph of section 2315 of title 18, United States Code, is amended by inserting after ''$5,000 or more,'' the following: ''or, during any 12-month period, of an aggregate value of $5,000 or more during that period,''.

(c) FRAUD IN CONNECTION WITH ACCESS DEVICES.—Section 1029(e)(1) of title 18, United States Code, is amended by inserting ''Universal Product Code label,'' after ''code,''.

(d) REVIEW AND AMENDMENT OF FEDERAL SENTENCING GUIDELINES FOR OFFENSES RELATED TO ORGANIZED RETAIL CRIME.—

(1) REVIEW AND AMENDMENT.—

(A) IN GENERAL.—The United States Sentencing Commission, pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this subsection, shall review and, if appropriate, amend the Federal sentencing guidelines (including its policy statements) applicable to persons convicted of offenses involving organized retail crime, which is the coordinated acquisition of large volumes of retail merchandise by theft, embezzlement, fraud, false pretenses, or other illegal means from commercial entities engaged in interstate commerce for the purpose of selling or distributing such illegally obtained items in the stream of commerce.

(B) OFFENSES.—Offenses referred to in subparagraph (A) may include offenses contained in—

(i) sections 1029, 2314, and 2315 of title 18, United States Code; or

(ii) any other relevant provision of the United States Code.

(2) REQUIREMENTS.—In carrying out the requirements of this subsection, the United States Sentencing Commission shall—

(A) ensure that the Federal sentencing guidelines (including its policy statements) reflect—

(i) the serious nature and magnitude of organized retail crime; and

(ii) the need to deter, prevent, and punish offenses involving organized retail crime;

(B) consider the extent to which the Federal sentencing guidelines (including its policy statements) adequately address offenses involving organized retail crime to sufficiently deter and punish such offenses;

(C) maintain reasonable consistency with other relevant directives and sentencing guidelines;

(D) account for any additional aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges; and

(E) consider whether to provide a sentencing enhancement for those convicted of conduct involving organized retail crime, where such conduct involves—

(i) a threat to public health and safety, including alteration of an expiration date or of product ingredients;

(ii) theft, conversion, alteration, or removal of a product label;

(iii) a second or subsequent offense; or

(iv) the use of advanced technology to acquire retail merchandise by means of theft, embezzlement, fraud, false pretenses, or other illegal means.

SEC. 4. SALES OF ILLEGALLY OBTAINED ITEMS IN PHYSICAL OR ONLINE RETAIL MARKETPLACES.

(a) IN GENERAL.—Chapter 113 of title 18, United States Code, is amended by adding at the end the following:

''SEC. 2323. ONLINE RETAIL MARKETPLACES.

''(a) DEFINITIONS.—As used in this section, the following definitions shall apply:

''(1) HIGH VOLUME SELLER.—The term 'high volume seller' means a user of an online retail marketplace who, in any continuous 12-month period during the previous 24 months, has entered into—

''(A) multiple discrete sales or transactions resulting in the accumulation of an aggregate total of $20,000 or more in gross revenues; or

''(B) 200 or more discrete sales or transactions resulting in the accumulation of an aggregate total of $10,000 or more in gross revenues.

''(2) INTERNET SITE.—The term 'Internet site' means a location on the Internet that is accessible at a specific Internet domain name or address under the Internet Protocol (or any successor protocol), or that is identified by a uniform resource locator.

''(3) ONLINE RETAIL MARKETPLACE.—The term 'online retail marketplace' means an Internet site where users other than the operator of the Internet site can enter into transactions with each other for the sale or distribution of goods or services, and in which—

''(A) such goods or services are promoted through inclusion in search results displayed within the Internet site;

''(B) the operator of the Internet site—

''(i) has the contractual right to supervise the activities of users with respect to such goods or services; or

''(ii) has a financial interest in the sale of such goods or services; and

''(C) in any continuous 12-month period during the previous 24 months, users other than the operator of the Internet site collectively have entered into—

''(i) multiple discrete transactions for the sale of goods or services aggregating a total of $500,000 or more in gross revenues; or

''(ii) 1,000 or more discrete transactions for the sale of goods or services aggregating a total of $250,000 or more in gross revenues.

''(4) OPERATOR OF AN ONLINE RETAIL MARKETPLACE.—The term 'operator of an online retail marketplace' means a person or entity that—

''(A) operates or controls an online retail marketplace; and

''(B) makes the online retail marketplace available for users to enter into transactions with each other on that marketplace for the sale or distribution of goods or services.

''(5) OPERATOR OF A PHYSICAL RETAIL MARKETPLACE.—The term 'operator of a physical retail marketplace' means a person or entity that rents or otherwise makes available a physical retail marketplace to transient vendors to conduct business for the sale of goods, or services related to such goods.

''(6) PHYSICAL RETAIL MARKETPLACE.—The term 'physical retail marketplace' may include a flea market, indoor or outdoor swap meet, open air market, or other similar environment, and means a venue or event in which physical space is made available not more than 4 days per week by an operator of a physical retail marketplace as a temporary place of business for transient vendors to conduct business for the sale of goods, or services related to such goods; and

''(A) in which in any continuous 12-month period during the preceding 24 months, there have been 10 or more days on which 5 or more transient vendors have conducted business at the venue or event; and

''(B) does not mean and shall not apply to an event which is organized and conducted for the exclusive benefit of any community chest, fund, foundation, association, or corporation organized and operated for religious, educational, or charitable purposes, provided that no part of any admission fee or parking fee charged vendors or prospective purchasers, and no part of the gross receipts or net earnings from the sale or exchange of goods or services, whether in the form of a percentage of the receipts or earnings, salary, or otherwise, inures to the benefit of any private shareholder or person participating in the organization or conduct of the event.

''(7) STRUCTURING.—The term 'structuring' means to knowingly conduct, or attempt to conduct, alone, or in conjunction with or on behalf of 1 or more other persons, 1 or more transactions in currency, in any amount, in any manner, with the purpose of evading categorization as a physical retail marketplace, an online retail marketplace, or a high volume seller.

''(8) TEMPORARY PLACE OF BUSINESS.—The term 'temporary place of business' means any physical space made open to the public, including but not limited to a building, part of a building, tent or vacant lot, which is temporarily occupied by 1 or more persons or entities for the purpose of making sales of goods, or services related to those goods, to the public. A place of business is not temporary with respect to a person or entity if that person or entity conducts business at the place and stores unsold goods there when it is not open for business.

''(9) TRANSIENT VENDOR.—The term 'transient vendor' means any person or entity that, in the usual course of business, transports inventory, stocks of goods, or similar tangible personal property to a temporary place of business for the purpose of entering into transactions for the sale of such property.

''(10) USER.—The term 'user' means a person or entity that accesses an online retail marketplace for the purpose of entering into transactions for the sale or distribution of goods or services.

''(11) VALID PHYSICAL POSTAL ADDRESS.—The term 'valid physical postal address' means—

''(A) a current street address, including the city, State, and Zip code;

''(B) a Post Office box that has been registered with the United States Postal Service; or

''(C) a private mailbox that has been registered with a commercial mail receiving agency that is established pursuant to United States Postal Service regulations.

''(b) SAFEGUARDS AGAINST SALES OF ILLEGALLY-OBTAINED ITEMS.—

''(1) DUTIES OF OPERATORS OF PHYSICAL RETAIL MARKETPLACES AND ONLINE RETAIL MARKETPLACES TO CONDUCT ACCOUNT REVIEWS AND FILE SUSPICIOUS ACTIVITY REPORTS.—In the event that an operator of a physical or online retail marketplace is presented with documentary evidence showing that a transient vendor of the physical retail marketplace, a user of the online retail marketplace, or a director, officer, employee, or agent of such transient vendor or user, has used or is using the retail marketplace to sell or distribute items that were stolen, embezzled, or obtained by fraud, false pretenses or other illegal means, or has engaged in or is engaging in structuring, the operator shall—

''(A) not later than 15 days after receiving such evidence—

''(i) file a suspicious activity report with the Attorney General of the United States; and

''(ii) not later than 5 days after filing the report, notify any person or entity that presented the documentary evidence that the operator filed the report; and

''(B)(i) initiate a review of the account of such transient vendor or user for evidence of illegal activity; and

''(ii) as soon as possible, but not later than 45 days after receiving such evidence—

''(I) complete this review; and

''(II) submit the results of such account review to the Attorney General.

''(2) DUTIES OF OPERATORS OF PHYSICAL RETAIL MARKETPLACES AND ONLINE RETAIL MARKETPLACES TO TERMINATE SALES ACTIVITY.—

''(A) IN GENERAL.—If an operator of a physical retail marketplace or an online retail marketplace reasonably determines that, based on the documentary evidence presented to it or the account review conducted by it under paragraph (1), there is clear and convincing evidence that a transient vendor of the physical retail marketplace, a user of the online retail marketplace, or a director, officer, employee or agent of such transient vendor or user, has used or is using the retail marketplace to sell or distribute items that were stolen, embezzled, or obtained by fraud, false pretenses, or other illegal means, or has engaged in or is engaging in structuring, the operator shall, not sooner than 21 days and not later than 45 days after submitting the results of the account review to the Attorney General pursuant to paragraph (1), either—

''(i) terminate the ability of the transient vendor to conduct business at the physical retail marketplace or terminate the ability of the user to conduct transactions on the online retail marketplace, and notify the Attorney General of such action; or

''(ii)(I) request that the transient vendor or user present documentary evidence that the operator reasonably determines to be clear and convincing showing that the transient vendor or user has not used the retail marketplace to sell or distribute items that were stolen, embezzled, or obtained by fraud, false pretenses, or other illegal means, or has not engaged in or is not engaging in structuring; and

''(II)(aa) if the transient vendor or user fails to present such information within 45 days of such request, terminate the ability of the transient vendor to conduct business at the physical retail marketplace or terminate the ability of the user to conduct transactions on the online retail marketplace, and notify the Attorney General of such action; or

''(bb) if the transient vendor or user presents such information within 45 days, then the operator shall report such information to the Attorney General and notify the transient vendor or user that the operator will not terminate the activities of the transient vendor or user.

''(B) ATTORNEY GENERAL AUTHORIZATION.—The Attorney General or a designee may, with respect to the timing of the operator's actions pursuant to this paragraph, authorize the operator in writing to take such action prior to 21 days after submitting the results of the account review to the Attorney General or direct the operator in writing and for good cause to delay such action to a date later than 45 days after submitting the results of the account review.

''(3) DOCUMENTARY EVIDENCE.—The documentary evidence referenced in paragraphs (1) or (2)—

''(A) shall refer to 1 or more specific items, individuals, entities or transactions allegedly involved in theft, embezzlement, fraud, false pretenses, or other illegal activity; and

''(B) shall be—

''(i) video recordings;

''(ii) audio recordings;

''(iii) sworn affidavits;

''(iv) financial, accounting, business, or sales records;

''(v) records or transcripts of phone conversations;

''(vi) documents that have been filed in a Federal or State court proceeding; or

''(vii) signed reports to or from a law enforcement agency.

''(4) RETENTION OF RECORDS.—

''(A) RETAIL MARKETPLACES.—Each operator of a physical retail marketplace and each operator of an online retail marketplace shall maintain—

''(i) a record of all documentary evidence presented to it pursuant to paragraph (1) for 3 years from the date the operator received the evidence;

''(ii) a record of the results of all account reviews conducted pursuant to paragraph (1), and any supporting documentation, for 3 years from the date of the review; and

''(iii) a copy of any suspicious activity report filed with the Attorney General pursuant to this subsection, and the original supporting documentation concerning any report that it files, for 3 years from the date of the filing.

''(B) ONLINE RETAIL MARKETPLACE.—Each operator of an online retail marketplace shall maintain, for 3 years after the date a user becomes a high volume seller, the name, telephone number, e-mail address, valid physical postal address, and any other identification information that the operator receives about the high volume seller.

''(5) CONFIDENTIALITY OF REPORTS.—No operator of a physical retail marketplace or online retail marketplace, and no director, officer, employee or agent of such operator, may notify any individual or entity that is the subject of a suspicious activity report filed pursuant to paragraph (1), or of an account review performed pursuant to paragraph (1), of the fact that the operator filed such a report or performed such an account review, or of any information contained in the report or account review.

''(6) HIGH VOLUME SELLERS.—

''(A) VALID POSTAL ADDRESS.—An operator of an online retail marketplace shall require each high volume seller to display a valid physical postal address whenever other information about the items or services being sold by the high volume seller is displayed on the online retail marketplace. Such valid physical postal address must be displayed in a format clearly visible to the average consumer.

''(B) FAILURE TO PROVIDE.—In the event that a high volume seller has failed to display a valid physical postal address as required in this paragraph, the operator of the online retail marketplace shall—

''(i) within 15 days notify the user of its duty to display a valid physical postal address; and

''(ii) if 45 days after providing this initial notification the user still has not displayed a valid physical postal address, shall—

''(I) terminate the ability of the user to conduct transactions on marketplace; and

''(II) file within 15 days a suspicious activity report with the Attorney General of the United States.

''(7) CONTENTS OF SUSPICIOUS ACTIVITY REPORTS.—A suspicious activity report submitted by an operator to the Attorney General pursuant to paragraph (1) or (6) shall contain the following information:

''(A) The name, address, telephone number, and e-mail address of the individual or entity that is the subject of the report, to the extent known.

''(B) Any other information that is in the possession of the operator filing the report regarding the identification of the individual or entity that is the subject of the report.

''(C) A copy of the documentary evidence and other information that led to the filing of the report pursuant to paragraph (1) or (6).

''(D) A detailed description of the results of the account review conducted pursuant to paragraph (1).

''(E) Such other information as the Attorney General may by regulation prescribe.

''(c) VOLUNTARY REPORTS.—Nothing in this section prevents an operator of a physical retail marketplace or online retail marketplace from voluntarily reporting to a Federal, State, or local government agency any suspicious activity that such operator believes is relevant to the possible violation of any law or regulation, provided that the operator also complies with the requirements of this section.

''(d) STRUCTURING.—No individual or entity shall engage in structuring as defined in this section.

''(e) ENFORCEMENT BY ATTORNEY GENERAL.—

''(1) IN GENERAL.—Any individual or entity who knowingly commits a violation of, or knowingly fails to comply with the requirements specified in, paragraph (1), (2), (4), (5), (6), or (7) of subsection (b), or subsection (d), shall be liable to the United States Government for a civil penalty of not more than $10,000 per violation.

''(2) FALSE STATEMENTS.—

''(A) INTENT TO INFLUENCE AN OPERATOR.—Any person who knowingly makes any material false or fictitious statement or representation with the intent to influence an operator of a physical retail marketplace or an operator of an online retail marketplace to file a suspicious activity report under subsection (b) shall be liable to the United States Government for a civil penalty of not more than $10,000 per violation.

''(B) SUSPICIOUS ACTIVITY REPORT.—Any person who knowingly and willfully makes any material false or fictitious statement or representation in any suspicious activity report required under subsection (b) may, upon conviction thereof, be subject to liability under section 1001.

''(f) ENFORCEMENT BY STATES.—

''(1) CIVIL ACTION.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by any person or entity who has committed or is committing a violation of this section, the attorney general, official, or agency of the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction—

''(A) to enjoin further violation of this section by the defendant;

''(B) to obtain damages on behalf of the residents of the State in an amount equal to the actual monetary loss suffered by such residents; or

''(C) to impose civil penalties in the amounts specified in subsection (e).

''(2) WRITTEN NOTICE.—

''(A) IN GENERAL.—The State shall serve prior written notice of any civil action under paragraph (1) upon the Attorney General of the United States, including a copy of its complaint, except that if it is not feasible for the State to provide such prior notice, the State shall serve such notice immediately upon instituting such action.

''(B) ATTORNEY GENERAL ACTION.—Upon receiving a notice respecting a civil action under subparagraph (A), the Attorney General of the United States shall have the right—

''(i) to intervene in such action;

''(ii) upon so intervening, to be heard on all matters arising therein; and

''(iii) to file petitions for appeal.

''(3) STATE POWERS PRESERVED.—For purposes of bringing any civil action under this subsection, nothing in this chapter shall prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

''(4) PENDING FEDERAL ACTION.—Whenever a civil action has been instituted by the Attorney General of the United States for violation of any rule prescribed under subsection (e), no State may, during the pendency of such action instituted by the Attorney General of the United States, institute a civil action under this subsection against any defendant named in the complaint in such action for any violation alleged in such complaint.

''(5) JURISDICTION.—

''(A) IN GENERAL.—Any civil action brought under this subsection in a district court of the United States may be brought in the district in which the defendant is found, is an inhabitant, or transacts business or wherever venue is proper under section 1391 of title 28.

''(B) PROCESS.—Process in an action under this subsection may be served in any district in which the defendant is an inhabitant or in which the defendant may be found.

''(g) NO PRIVATE RIGHT OF ACTION.—Nothing in this section shall be interpreted to authorize a private right of action for a violation of any provision of this section, or a private right of action under any other provision of Federal or State law to enforce a violation of this section.''.

(b) CHAPTER ANALYSIS.—The chapter analysis for chapter 113 of title 18, United States Code, is amended by inserting after the item for section 2322 the following:

''2323. Online retail marketplaces.''.

SEC. 5. NO PREEMPTION OF STATE LAW.

No provision of this Act, including any amendment made by this Act, shall be construed as indicating an intent on the part of Congress to occupy the field in which that provision or amendment operates, including criminal penalties, to the exclusion of any State law on the same subject matter that would otherwise be within the authority of the State, unless there is a positive conflict between that provision or amendment and that State law so that the 2 cannot consistently stand together.

SEC. 6. EFFECTIVE DATE.

The amendments made by this Act take effect 120 days after the date of the enactment of this Act.

By Mrs. FEINSTEIN (for herself, Mr. ROCKEFELLER, Mr. WHITEHOUSE, Mr. HAGEL, Mr. FEINGOLD, and Mr. WYDEN):

S. 3437. A bill to limit the use of certain interrogation techniques, to require notification of the International Committee of the Red Cross of detainees, to prohibit interrogation by contractors, and for other purposes; to the Select Committee on Intelligence.

Mrs. FEINSTEIN. Mr. President, today, Senators ROCKEFELLER, WHITEHOUSE, HAGEL, FEINGOLD and I introduce legislation to end coercive interrogations and secret detentions by the Central Intelligence Agency.

These practices have brought shame to our Nation, have harmed our ability to fight the war on terror, and, I believe, violate U.S. law and international treaty obligations.

It is time to repudiate torture and secret disappearances. It is time to end the outsourcing of coercive interrogations to the lowest bidder. It is time to return to the norms and values that have driven the United States to greatness for decades, but have been tarnished in the past 7 years.

It is now public knowledge that the Bush administration, in the Vice President's words, turned to ''the dark side.'' The ''gloves came off.'' In the name of counterterrorism, the CIA resorted to waterboarding—an interrogation technique invented in the Spanish Inquisition to force false confessions and punish enemies.

In a mistaken effort to gain better intelligence, the CIA used this same technique that the Justice Department has prosecuted and the State Department has decried overseas. The administration used warped logic and faulty reasoning to say waterboarding technique was not torture. It is.

Waterboarding is the only technique to be publicly confirmed by this administration. There are others that have not been acknowledged but are still authorized for use. This has to end.

But we will never turn this sad page in our Nation's history until all coercive techniques are banned, and are replaced with a single, clear, uniform standard across the United States Government.

That standard is the one set out in the Army Field Manual. Its techniques work for the military and for the Federal Bureau of Investigation. If the CIA would abide by its terms, it would work for the CIA as well.

The first provision in this legislation requires the Intelligence Community to follow the Army Field Manual. That is already the law for the Department of Defense.

It is supported by 43 retired generals and admirals and by a bipartisan group of former Secretaries of State and Defense, Ambassadors, and national security advisors.

Majorities in both houses of Congress passed this provision earlier this year, sending a clear message that we do not support coercive interrogations. Regrettably, the President's veto stopped it from becoming law.

The second provision in this legislation requires that access to any detainee being held by the intelligence community be provided to members of the International Committee of the Red Cross.

Access by the ICRC is a hallmark of international law and is required by the Geneva Conventions. We believe that granting access to the ICRC is the best way to ensure that the same right will be afforded to U.S. forces if they are ever captured overseas.

But ICRC access has been denied at CIA black sites in the war on terror. This has, in part, opened the door to the abuses in detainee treatment. Independent access prevents abuses like we witnessed at Abu Ghraib and Guantanamo Bay. It is time that the same protection is in place for the CIA as well, in the well-established rules that the military has used for years.

Finally, this legislation contains a ban on contractor interrogators at the CIA. As General Hayden has testified, the CIA uses outside contractors to conduct these interrogations.

We should not be using coercive interrogation techniques at all. But I firmly believe that outsourcing these interrogations to private companies is a way to diminish accountability and to avoid getting the Agency's hands dirty. I also believe that the use of contractors leads to more brutal interrogations than if they were done by Government employees.

We remain a nation at war, and credible, actionable intelligence remains a cornerstone of our war effort. But that is not what the CIA detention and interrogation program has provided.

Every single experienced interrogator tells us that coercive techniques will get someone to say what the interrogator wants to hear. But that doesn't make it true.

In fact, coercive interrogations and the threat of torture produced the information that Saddam Hussein was providing al Qaeda with WMD training. That wasn't true, but it helped lead us to war in Iraq.

Military and FBI interrogators also tell us that when they build a rapport with a detainee, they get more information, and more valuable information, than when it is coerced.

Beyond that, our Nation has paid an enormous price because of these interrogations. They cast shadow and doubt over our ideals and our system of justice. Our enemies have used our practices to recruit more extremists. Our key global partnerships, crucial to winning the war on terror, have been strained.

Look at two of our closest allies in the world. The British Parliament no longer trusts U.S. assurances that we will not torture detainees. The Canadian Government recently added the United States to its list of nations that conduct torture.

This is not the country that we want to be. Torture and disappearances do not befit the nation that I know.

It is time to restore America's integrity.

It will take time to resume our place as the world's beacon of liberty and justice. This bill will put us on that path and start the process. I urge its passage.

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. 3437

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 ''Restoring America's Integrity Act''.

SEC. 2. DEFINITIONS.

In this Act:

(1) INSTRUMENTALITY.—The term ''instrumentality'', with respect to an element of the intelligence community, means a contractor or subcontractor at any tier of the element of the intelligence community.

(2) INTELLIGENCE COMMUNITY.—The term ''intelligence community'' has the meaning given that term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

SEC. 3. LIMITATION ON INTERROGATION TECHNIQUES.

No individual in the custody or under the effective control of personnel of an element of the intelligence community or instrumentality of an element of the intelligence community, regardless of nationality or physical location of such individual or personnel, shall be subject to any treatment or technique of interrogation not authorized by the United States Army Field Manual on Human Intelligence Collector Operations.

SEC. 4. NOTIFICATION OF THE INTERNATIONAL COMMITTEE OF THE RED CROSS.

(a) REQUIREMENT.—The head of an element of the intelligence community or an instrumentality of such element who detains or has custody or effective control of an individual shall notify the International Committee of the Red Cross of the detention of the individual and provide access to such individual in a manner consistent with the practices of the Armed Forces.

(b) CONSTRUCTION.—Nothing in this section shall be construed—

(1) to create or otherwise imply the authority to detain; or

(2) to limit or otherwise affect any other rights or obligations which may arise under the Geneva Conventions, other international agreements, or other laws, or to state all of the situations under which notification to and access for the International Committee of the Red Cross is required or allowed.

SEC. 5. PROHIBITION ON INTERROGATIONS BY CONTRACTORS.

The Director of the Central Intelligence Agency may not permit a contractor or subcontractor to the Central Intelligence Agency to carry out an interrogation of an individual. Any interrogation carried out on behalf of the Central Intelligence Agency shall be conducted by an employee of such Agency.

By Ms. LANDRIEU:

S. 3438. A bill to prohibit the use of funds for the establishment of National Marine Monuments unless certain requirements are met; to the Committee on Commerce, Science, and Transportation.

Ms. LANDRIEU. Mr. President, I introduce this bill today to prevent misuse of the Antiquities. Act of 1906 to create very large marine monuments. The Antiquities Act was intended to protect landmarks, not create the largest protected areas in the United States unilaterally without congressional assent.

The Bush administration acted covertly to convey protected status to 139,000 square miles of the northwestern Hawaiian Islands. In so doing, the administration short-circuited the extensive Marine Sanctuaries process that was already underway and notified the delegation only after the press conference. Now they have turned their attention to the Gulf of Mexico.

We learned that the President, with mixed support from his top advisors, is considering using his authorities under the Antiquities Act to unilaterally and permanently declare ''marine monuments'' in various locations of the U.S. Exclusive Economic Zone. Some of these areas are in my backyard—in the Gulf of Mexico—but other areas of the Atlantic and Pacific are also under consideration.

I certainly understand the need to conserve and appropriately manage our most sensitive and vulnerable marine areas, which can serve as nurseries for fish stocks and provide critical habitat for other important species. That is why I support the processes Congress established in the National Marine Sanctuaries Act. But any declarations of new or additional protected status to marine areas should continue to follow the scientific and public processes outlined in the Sanctuaries Act. This is a good process that allows all affected parties—from the environmental community to recreational fishermen to the oil and gas industries—to have a say.

By Ms. LANDRIEU:

S. 3447. A bill to reprogram $15,000,000 in savings in the Jackson Barracks military construction to the Department of the Interior for the Historic Preservation Fund of the National Park Service for the purpose of restoring Jackson Barracks to its pre-Hurricane Katrina status as a national historic treasure; to the Committee on Energy and Natural Resources.

Ms. LANDRIEU. Mr. President, I introduce this bill today to restore historic Jackson Barracks in New Orleans to its pre-Hurricane Katrina status as a national historic treasure. Jackson Barracks represents the rich military history of New Orleans, and indeed our great State. However, the rebuilding of the structures on this significant garrison has been hindered by bureaucratic roadblocks and gaps in funding. This bill directly addresses those challenges.

As you know, Hurricane Katrina brought torrential floods and driving

winds to New Orleans and the surrounding region. The devastation from the storm touched every structure at Jackson Barracks. The original Jackson Barracks consists of 14 Antebellum Garrison Structures built between 1834 and 1835. These historic buildings were not spared and suffered tremendous damage.

There is a pressing need to complete the restoration and renovation of the barracks. Jackson Barracks requires additional renovations and restorations that are not within the scope of the Federal Emergency Management Agency hurricane restoration funding. With the agreement of the Chief, National Guard Bureau and the Secretary of the Interior, this bill would reprogram the savings from several military construction projects elsewhere on Jackson Barracks to assist in the completion of historic preservation at the post.

I ask the support of my colleagues in enabling the National Park Service to aid in the restoration of Jackson Barracks through the Historic Preservation Fund. I am not asking for additional dollars, but rather that the money that was saved on previous projects be recommitted and used for this vital need.

By Ms. LANDRIEU:

S. 3448. A bill to reauthorize the Cane River National Heritage Area Commission and expand the boundaries of the Cane River National Heritage Area in the State of Louisiana; to the Committee on Energy and Natural Resources.

Ms. LANDRIEU. Mr. President, I rise today to introduce legislation to reauthorize the Cane River National Heritage Area Commission and modify the boundaries of the heritage area. In 1994, Congress recognized this area as one of the nation's cultural and historic treasures. In the 1700s, Creole culture flowered across the stunning landscapes of the Cane River, and the Creole culture continues to enliven the region to this day. In terms of beauty, it is not only the landscape but the Creole architecture from that time period that charms visitors. Today, the 35 mile region includes the Cane River Creole National Historical Park, seven national historic landmarks, three state historic sites, and 24 properties listed on the National Register of Historic Places.

Anchored by the city of Natchitoches, which traces its history to a French colonial settlement established in 1714 near the Natchitoches Indian village on the Red River, the region's colonial forts, Creole plantations, churches, cemeteries, archeological sites, historic transportation routes, and commercial centers provide a unique view into Louisiana's past.

I am proud to represent the people of Louisiana by asking the 110th Congress to reauthorize this National Heritage Area and reaffirm the importance of the Cane River Creole culture as a nationally significant element of American heritage.

This should not be a difficult task. Congress has once before agreed to establish a Cane River Creole National Historical Park to serve as the focus of interpretive and educational programs on the history of the Cane River area and to assist in the preservation of certain historic sites along the river. Now, I ask this Congress to do it again by reauthorizing the Cane River National Heritage Area.

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. 3448

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 ''Cane River National Heritage Area Reauthorization Act of 2008''.

SEC. 2. CANE RIVER NATIONAL HERITAGE AREA.

(a) BOUNDARIES.—Section 401 of the Cane River Creole National Historical Park and National Heritage Area Act (16 U.S.C. 410ccc–21) is amended—

(1) in subsection (b)—

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

(B) by redesignating paragraph (4) as paragraph (6); and

(C) by inserting after paragraph (3) the following:

''(4) fostering compatible economic development;

''(5) enhancing the quality of life for local residents; and''; and

(2) in subsection (c), by striking paragraphs (1) through (6) and inserting the following:

''(1) the area generally depicted on the map entitled 'Revised Boundary of Cane National Heritage Area Louisiana', numbered 494/80021, and dated May 2008;

''(2) the Fort Jesup State Historic Site; and

''(3) as satellite site, any properties connected with the prehistory, history, or cultures of the Cane River region that may be the subject of cooperative agreements with the Cane River National Heritage Area Commission or any successor to the Commission.''.

(b) CANE RIVER NATIONAL HERITAGE AREA COMMISSION.—Section 402 of the Cane River Creole National Historical Park and National Heritage Area Act (16 U.S.C. 410ccc–22) is amended—

(1) in subsection (b)—

(A) by striking ''19'' and inserting ''23'';

(B) in paragraph (4), by inserting ''the Natchitoches Parish Tourist Commission and other'' before ''local'';

(C) in paragraph (7), by striking ''Concern Citizens of Cloutierville'' and inserting ''Village of Cloutierville'';

(D) in paragraph (13), by striking ''are landowners in and residents of'' and inserting ''own land within the heritage area'';

(E) in paragraph (16)—

(i) by striking ''one member'' and inserting ''2 members''; and

(ii) by striking ''and'' at the end; and

(F) by redesignating paragraph (17) as paragraph (19); and

(G) by inserting after paragraph (16) the following:

''(17) 2 members, 1 of whom represents African American culture and 1 of whom represents Cane River Creole culture, after consideration of recommendations submitted by the Governor of Louisiana;

''(18) 1 member with knowledge of tourism, after consideration of recommendations by the Secretary of the Louisiana Department of Culture, Recreation and Tourism; and''.

(2) in subsection (c)(4), by striking '', such as a non-profit corporation,'';

(3) in subsection (d)—

(A) in paragraph (5), by striking ''for research, historic preservation, and education purposes'' and inserting ''to further the purposes of title III and this title'';

(B) in paragraph (6), by striking ''the preparation of studies that identify, preserve, and plan for the management of the heritage area'' and inserting ''carrying out projects or programs that further the purposes of title III and this title''; and

(C) by striking paragraph (8) and inserting the following:

''(8) develop, or assist others in developing, projects or programs to further the purposes of title III and this title;''; and

(4) in the third sentence of subsection (g), by inserting '', except that if any of the organizations specified in subsection (b) ceases to exist, the vacancy shall be filled with an at-large member'' after ''made''.

(c) PREPARATION OF THE PLAN.—Section 403 of the Cane River Creole National Historical Park and National Heritage Area Act (16 U.S.C. 410ccc–23) is amended by adding at the end the following:

''(d) AMENDMENTS.—

''(1) IN GENERAL.—An amendment to the management plan that substantially alters the purposes of the heritage area shall be reviewed by the Secretary and approved or disapproved in the same manner as the management plan.

''(2) IMPLEMENTATION.—The local coordinating entity shall not use Federal funds made available under this title to implement an amendment to the management plan until the Secretary approves the amendment.''.

(d) TERMINATION OF HERITAGE AREA COMMISSION.—Section 404 of the Cane River Creole National Historical Park and National Heritage Area Act (16 U.S.C. 410ccc–24) is amended—

(1) in subsection (a), by striking ''the day occurring 10 years after the first official meeting of the Commission'' and inserting ''August 5, 2025''; and

(2) in the third sentence of subsection (c), by striking '', including the potential for a nonprofit corporation,''.

By Ms. LANDRIEU:

S. 3449. A bill to direct the Secretary of the Interior to study the suitability and feasibility of designating sites in the Lower Mississippi River Area in the State of Louisiana as a unit of the National Park System, and for other purposes; to the Committee on Energy and Natural Resources.

Ms. LANDRIEU. Mr. President, I rise today to introduce legislation entitled the Lower Mississippi River National Historic Site Study Act. This bill will direct the Secretary of the Interior to study the suitability and feasibility of designating sites in Plaquemines Parish along the Lower Mississippi River Area as a unit of the National Park System. To be eligible for favorable consideration as a unit of the National Park System, an area must possess nationally significant natural, cultural or recreational resources. The Lower Mississippi River area in Plaquemines Parish meets and exceeds these criteria.

I am proud to come to the floor today to introduce this bill. Anyone who has visited Plaquemines Parish knows that it is one of the Nation's unique treasures. The natural beauty there at the mouth of the Mississippi is impossible to describe, but impossible not to love. The area is rich in history, and it is a preserve for one of the nation's most unique cultural mélanges.

That mix began after the Native Americans in the region began to intermingle with the Spanish explorers who traveled along the banks of the river in the 1500s. In 1682, René-Robert Cavelier de LaSalle claimed all the land drained by the Mississippi for France area. In 1699, the area became the site of the first fortification on the Lower Mississippi River, known as Fort Mississippi. Since then, it has been the home to 10 different fortifications, including Fort St. Philip and Fort Jackson.

Fort St. Philip, originally built in 1749, proved to be instrumental during the Battle of New Orleans by blocking the British Navy from going up river. Fort Jackson was built at the request of General Andrew Jackson and partially constructed by famous local Civil War General P.G.T. Beauregard. This fort was the site of the famous Civil War battle know as the ''Battle of Forts'' which is also referred to as the ''night the war was lost.''

As this glimpse of the region's military history shows, the Lower Plaquemines region is of national cultural and historical significance.

There are also many other important and unique attributes to this area. This area is home to the longest continuous river road and levee system in the U.S. It is also home to the ancient Head of Passes site, Plaquemines Bend, geological features and two national wildlife refuges.

Finally, the area has a rich cultural heritage. Over the years, many different cultures have made this area home including Creoles, Europeans, Indians, Yugoslavs, African-Americans and Vietnamese. These cultures have worked together to create the infrastructure for transportation of our Nation's energy which is being produced by these same people out in the Gulf of Mexico off our shores. They have also created a fishing industry that contributes to Louisiana's economy.

I think it is easy to see why this area would make an excellent addition to the National Park Service. I hope that my colleagues will join me in supporting this bill which simply allows the National Park Service to study the suitability and feasibility of bringing this area into the system. I look forward to working with my colleagues to quickly enact this bill.

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. 3449

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 ''Lower Mississippi River National Historic Site Study Act of 2008''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the Lower Mississippi area located south of New Orleans, Louisiana, which is known as ''Plaquemines Parish'', has great historical significance;

(2) from the earliest Spanish explorers traveling along the banks of the Lower Mississippi River in the 1500's, to Robert de LaSalle claiming all of the land drained by the Lower Mississippi River in 1682, to the petroleum, fisheries, and transportation industries of today, the area is one of the most unique areas in the continental United States;

(3) while, in 1699, the area became the site of the first fortification on the Lower Mississippi River, known as ''Fort Mississippi'', it has since been home to 10 different fortifications, more than a dozen light houses, and several wildlife refuges, quarantine stations, and pilot stations;

(4) of particular interest to the area are—

(A) Fort St. Philip, originally built in 1749, at which, during the Battle of New Orleans, the British navy was blocked from going up river and a victory for the Colonial Army was ensured; and

(B) Fort Jackson, built across from Fort St. Philip at the request of General Andrew Jackson and partially constructed by famous local Civil War General P.G.T. Beauregard, which was the site of the famous Civil War battle known as the ''Battle of the Forts'', which is also referred to as the ''night the war was lost'';

(5) the area is—

(A) at the end of the longest continuous river road and levee system in the United States; and

(B) a part of the River Road highway system;

(6) lower Plaquemines Parish is split down the middle by the Mississippi River, surrounded on 3 sides by the Gulf of Mexico, and crossed by numerous bayous, canals, and ditches;

(7) Fort Jackson and Fort St. Philip are located on—

(A) an ancient Head of Passes site; and

(B) 1 of the most historic areas on the Lower Mississippi River known as ''Plaquemines Bend'';

(8) the modern Head of Passes is only 21 miles south of Fort Jackson and Fort St. Philip where the Mississippi River splits into a bird foot delta to travel the last 20 miles to the Gulf of Mexico;

(9) there are numerous geological features that are unique to a large river mouth or delta that could make a national park in the area a particularly intriguing attraction;

(10) the coastal erosion, subsidence, river hydraulics, delta features, fresh, salt, and brackish water marshes, and other unique features of the area could be an effective classroom for the public on the challenges of protecting our river and coastal zones;

(11) the area includes the beginning of the Mississippi River flyway, which is—

(A) 1 of the most pristine eco-sites in the United States; and

(B) the site of 2 national wildlife refuges and 1 state wildlife refuge;

(12) the area is culturally diverse in history, population, industry, and politics;

(13) many well-known characters lived or performed deeds of great notoriety in the area;

(14) in the area, Creoles, Europeans, Indians, Yugoslav, African-Americans, and Vietnamese all worked together to weave an interesting history of survival and success in a very treacherous environment;

(15) the area has tremendous tourism potential, particularly for historical tourism and eco-tourism, because of the location, pristine ecosystems, and past indifference of the local government to promote tourism in the area; and

(16) since Hurricane Katrina, the local government in the area has—

(A) passed a resolution strongly supporting a national park study; and

(B) shown an interest in developing tourism in the area.

SEC. 3. DEFINITIONS.

In this Act:

(1) STUDY AREA.—

(A) IN GENERAL.—The term ''Study Area'' means the Lower Mississippi River area in the State of Louisiana.

(B) INCLUSIONS.—The term ''Study Area'' includes Fort St. Philip and Fort Jackson, the Head of Passes, and any related and supporting historical, natural, cultural, and recreational resources located in Plaquemines Parish, Louisiana.

(2) SECRETARY.—The term ''Secretary'' mean the Secretary of the Interior, acting through the Director of the National Park Service.

SEC. 4. STUDY.

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary, in consultation with the State of Louisiana and interested groups and organizations, shall complete a special resource study that—

(1) evaluates—

(A) the national significance of the Study Area; and

(B) the suitability and feasibility of designating the Study Area as a unit of the National Park System, to be known as the ''Lower Mississippi River National Park'';

(2) includes cost estimates for the acquisition, development, operation, and maintenance of the Study Area; and

(3) identifies alternatives for management, administration, and protection of the Study Area.

(b) CRITERIA.—In conducting the study under subsection (a), the Secretary shall use the criteria for the study of areas for potential inclusion in the National Park System under section 8(c) of Public Law 91–383 (16 U.S.C. 1a–5(c)).

SEC. 5. REPORT.

On completion of the study under section 4, the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report that describes—

(1) the findings and conclusions of the study; and

(2) any recommendations of the Secretary.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 643—CALLING FOR GREATER DIALOGUE BETWEEN THE DALAI LAMA AND THE GOVERNMENT OF CHINA REGARDING RIGHTS FOR THE PEOPLE OF TIBET, AND FOR OTHER PURPOSES

Mr. SMITH (for himself and Mr. FEINGOLD) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 643

Whereas, on April 25, 2008, China's official news agency Xinhua expressed the willingness of the Government of China to meet with envoys of the Dalai Lama;

Whereas, on May 4, 2008, Special Envoy of His Holiness the Dalai Lama Lodi Gyari and Envoy Kelsang Gyaltsen met with Chinese Executive Vice Minister Zhu Weiqun and Executive Vice Minister Sithar for one day of talks, in which the Government of China alleged that the Dalai Lama instigated the March 2008 unrest in autonomous Tibetan areas of China, and was sabotaging the Olympic Games;

Whereas Hu Jintao, General Secretary of the Communist Party of China, released a statement after this meeting saying that his Government of China was committed to a ''serious'' dialogue with the Dalai Lama;

Whereas, at the United States-European Union (EU) Summit on June 10, 2008, the United States and the European Union issued a joint statement welcoming the decision by the Government of China to hold talks with representatives of the Dalai Lama, and urged ''both parties to move forward with a substantive, constructive and results-oriented dialogue at an early date'';

Whereas the Envoys of His Holiness the Dalai Lama's Kelsang Gyaltsen and Lodi Gyari visited Beijing from June 30 to July 3, 2008, to conduct the seventh round of the Tibetan-Chinese dialogue;

Whereas, during these talks, the Government of China issued a new set of demands, including that the Dalai Lama prove that he does not support Tibetan independence or disruption of the Olympic Games in Beijing;

Whereas the Dalai Lama has stated multiple times he does not favor the independence of Tibet and is instead seeking negotiations to address the legitimate grievances of, and provide genuine autonomy for, the Tibetan people within the People's Republic of China, and is committed to non-violence;

Whereas the Dalai Lama has repeatedly and publicly declared his support for the Olympic Games in China, as well as his intention to attend the opening ceremony, if invited;

Whereas, at the conclusion of the July round of talks, officials of the Government of China did not accept a proposal by the representatives of the Dalai Lama to agree to a joint statement supporting a continuation of the dialogue process;

Whereas Special Envoy Lodi Gyari said on July 5, 2008, that the talks with the Government of China, called for by the international community, were ''disappointing and difficult'';

Whereas, in contrast to the opinion of Special Envoy Lodi Gyari, President George W. Bush said on July 6, 2008, that ''it looks like there's some progress, at least in the talks with the Dalai Lama'';

Whereas officials of the Government of China subsequently stated that the talks with the Dalai Lama's envoys are only about the Dalai Lama's personal future, rather than about the future of Tibet;

Whereas the Office of the Dalai Lama on July 17, 2008, restated its position that the talks are about ''the future of 6,000,000 Tibetans in Tibet and not His Holiness the Dalai Lama'';

Whereas, on July 11, 2008, the European Parliament adopted a resolution that ''welcomes the resumption of contacts, after the events of March 2008 in Lhasa, between the representatives of the Dalai Lama and the Chinese authorities'' and ''encourages the two parties to intensify these contacts so as to establish the bases for mutual trust, without which it will be impossible to arrive at a mutually acceptable political solution'';

Whereas, on the official stage during the Olympic torch's relay through Lhasa on June 21, 2008, China's Communist Party chief in the Tibet Autonomous Region (TAR), Zhang Qingli, said, ''Tibet's sky will never change and the red flag with five stars will forever flutter high above it. ... [W]e will certainly be able to totally smash the splittist schemes of the Dalai Lama clique.'';

Whereas, in reference to Zhang Qingli, the International Olympics Committee said in a rare rebuke that it ''regrets that political statements were made during the closing ceremony of the torch relay in Tibet''; and

Whereas China's People's Armed Police troops have been sent to monasteries in Tibetan areas to give monks ''relevant information'' about the Olympics, and Chinese authorities have stepped up ''patriotic education'' campaigns designed to conform the religious practices of Tibetan Buddhists to Communist Party rules, including forcing monks and nuns to denounce the Dalai Lama: Now, therefore, be it

Resolved, That the Senate—

(1) urges the Dalai Lama or his representatives and the Government of the People's Republic of China to begin earnest negotiations, without preconditions, to provide for a mutually agreeable solution that addresses the legitimate grievances of, and provides genuine autonomy for, the Tibetan people;

(2) urges that the talks in October 2008 between the Government of China and the Dalai Lama should focus on the welfare, cultural, political, and religious autonomy of the Tibetan people, and not on the person of the Dalai Lama;

(3) affirms that the human rights of Tibetans and their right to practice religion free of government regulation is not an internal matter of any one country;

(4) urges the President to take a more personal and engaged interest in the successful conclusion of these negotiations, both unilaterally and in coordination with United States allies; and

(5) calls on the United States Government to press the Government of China—

(A) to respect freedom of speech and freedom of association, as required by international law and as enshrined in the Constitution of China and to release those who have committed no crime other than peaceful protest; and

(B) to end the ''patriotic education'' campaign against lay and clerical Tibetans and allow Tibetans to practice their religion freely.

Mr. SMITH. Mr. President, I rise today to introduce a resolution with my colleague, Senator FEINGOLD, supporting the human rights and religious freedom of Tibetans.

Last March, I was one of many people worldwide who watched as Tibetan demonstrations in China exploded into violence. These protests reflected longstanding frustration with the harsh measures imposed on Tibetans by the Government of China. Among other harassment, Tibetans can be required to undergo propaganda-based ''political education,'' detained without judicial due process, and are forbidden from possessing pictures of the Dalai Lama. After the March 2008 unrest, much of the international community urged China and the Dalai Lama to enter a positive, results-based dialogue on the human rights of Tibetans living. Unfortunately, these pleas have apparently fallen on deaf ears in Beijing. After the latest round of Tibetan-Chinese dialogue from June 30 to July 3, the Tibetan representatives expressed disappointment that the two sides could not even agree on a joint resolution calling for more talks. Progress, it seems, has been almost non-existent.

As a result, Senator FEINGOLD and I are introducing a resolution urging that the talks—real, results-oriented talks—continue. We also call for the United States to press the Government of China to make a serious commitment to the human rights and religious freedom of Tibetans living on its soil, and an end to forced ''political education'' of Tibetans. The aim of the dialogue between the Government of China and the Dalai Lama must include an end to harassment of lay and religious Tibetans, and genuine autonomy for ethnically Tibetan regions.

SENATE RESOLUTION 644—DESIGNATING SEPTEMBER 2008 AS ''NATIONAL CHILD AWARENESS MONTH'' TO PROMOTE AWARENESS OF CHARITIES BENEFITTING CHILDREN AND YOUTH-SERVING ORGANIZATIONS THROUGHOUT THE UNITED STATES AND RECOGNIZING EFFORTS MADE BY THESE CHARITIES AND ORGANIZATIONS ON BEHALF OF CHILDREN AND YOUTH AS A POSITIVE INVESTMENT IN THE FUTURE OF THE UNITED STATES

Mr. BURR (for himself and Mrs. FEINSTEIN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S.RES. 644

Whereas millions of children and youth in the United States represent the hopes and future of the United States;

Whereas numerous individuals, charities benefitting children, and youth-serving organizations that work with children and youth collaborate to provide invaluable services to enrich and better the lives of children and youth throughout the United States;

Whereas raising awareness of and increasing support for organizations that provide access to healthcare, social services, education, the arts, sports, and other services will result in the development of character and the future success of children and youth;

Whereas the President issued a proclamation on May 30, 2008, proclaiming June 1, 2008 as ''National Child's Day'' to demonstrate a commitment to the youth of the United States;

Whereas September, as the school year begins, is a time when parents, families, teachers, school administrators, and communities increase their focus on children and youth throughout the United States;

Whereas September is a time for the people of the United States to highlight and be mindful of the needs of children and youth;

Whereas private corporations and businesses have joined with hundreds of national and local charitable organizations throughout the United States in support of a month-long focus on children and youth;

Whereas designating September 2008 as ''National Child Awareness Month'' would recognize that a long-term commitment to children and youth is in the public interest, and will encourage widespread support for charities and organizations that seek to provide a better future for the children and youth of the United States: Now, therefore, be it

Resolved, That the Senate designates September 2008 as ''National Child Awareness Month''—

(1) to promote awareness of charities benefitting children and youth-serving organizations throughout the United States; and

(2) to recognize efforts made by such charities and organizations on behalf of children and youth as a positive investment in the future of the United States.

SENATE RESOLUTION 645—HONORING THE LIFE OF ANNE LEGENDRE ARMSTRONG

Mr. CORNYN (for himself and Mrs. HUTCHISON) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 645

Whereas Anne Legendre Armstrong, a pioneer for women in public service, passed away on July 30, 2008, at the age of 80;

Whereas Anne Armstrong was educated at Foxcroft School in Middleburg, Virginia, where she was valedictorian of her graduating class;

Whereas Anne Armstrong received her B.A. degree from Vassar College, where she was elected to Phi Beta Kappa in her junior year;

Whereas Anne Armstrong was an active and respected leader in the Texas Republican Party and the first female co-chair of the Republican National Committee;

Whereas Anne Armstrong served both President Richard Nixon and President Gerald Ford as a Cabinet-level counselor, the first woman to do so;

Whereas Anne Armstrong was named by President Gerald Ford as the United States Ambassador to the United Kingdom, the first woman to hold that important and prestigious post;

Whereas Anne Armstrong was awarded the Presidential Medal of Freedom, the Nation's highest civilian honor, by President Ronald Reagan;

Whereas Anne Armstrong graciously hosted world leaders and other prominent individuals at the legendary Armstrong Ranch in Kenedy County, Texas;

Whereas Anne Armstrong was inducted into the Texas Women's Hall of Fame in 1986 for her numerous achievements and contributions to the State of Texas and the Nation;

Whereas Anne Armstrong lost her beloved husband Tobin in 2005, and is survived by 5 five children: J. Barclay Armstrong, Katharine Armstrong Love, Sarita Armstrong Hixon, James Armstrong, and Tobin Armstrong, Jr.;

Whereas Anne Armstrong is also survived by 13 grandchildren and a sister, Katharine Legendre King; and

Whereas Anne Armstrong will be deeply missed by the people of Texas and the Nation as a whole: Now, therefore, be it

Resolved, That the Senate honors the life of Anne Legendre Armstrong, an exemplar of dedication to public service and an inspiration for the Texans who have followed her.

SENATE RESOLUTION 646—RECOGNIZING AND SUPPORTING THE GOALS AND IDEALS OF NATIONAL RUNAWAY PREVENTION MONTH

Mr. SHELBY (for himself and Mrs. LINCOLN) submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. RES. 646

Whereas the prevalence of running away from home and homelessness among youths is staggering, with studies suggesting that between 1,600,000 and 2,800,000 youths live on the streets of the United States each year;

Whereas running away from home is widespread, and youths aged 12 to 17 are at a higher risk of becoming homeless than adults;

Whereas youths who run away from home most often have been expelled from their homes by their families, have been physically, sexually, or emotionally abused at home, have been discharged by State custodial systems without adequate transition plans, or have been separated from their parents by death and divorce, are too poor to secure their own basic needs, and are ineligible or unable to access adequate medical or mental health resources;

Whereas effective programs that support runaway youths and assist youths and their families in preventing youths from running away succeed because of partnerships created among families, community-based human service agencies, law enforcement agencies, schools, faith-based organizations, and businesses;

Whereas preventing youths from running away from home and supporting youths in high-risk situations are priorities for families, communities, and the Nation;

Whereas the future well-being of the United States is dependent on the opportunities provided for youths and families to acquire the knowledge, skills, and abilities necessary for youths to develop into safe, healthy, and productive adults;

Whereas the National Network for Youth and its members advocate on behalf of runaway and homeless youths and provide an array of community-based support to address their critical needs;

Whereas the National Runaway Switchboard provides crisis intervention and referrals to reconnect runaway youths with their families and to link youths to local resources that provide positive alternatives to running away from home; and

Whereas the National Network for Youth and the National Runaway Switchboard are cosponsoring National Runaway Prevention Month in November 2008 to increase public awareness of the life circumstances of youths in high-risk situations, the need for safe, healthy, and productive alternatives to running away, and the resources and support available for youths, families, and communities: Now, therefore, be it

Resolved, That the Senate recognizes and supports the goals and ideals of National Runaway Prevention Month.

SENATE RESOLUTION 647—DESIGNATING SEPTEMBER 9, 2008, AS ''NATIONAL FETAL ALCOHOL SPECTRUM DISORDERS AWARENESS DAY''

Ms. MURKOWSKI (for herself, Mr. JOHNSON, Mrs. MURRAY, Mr. SPECTER, Mr. COLEMAN, Mr. STEVENS, and Mr. HATCH) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 647

Whereas the term ''fetal alcohol spectrum disorders'' includes a broader range of conditions and therefore has replaced the term ''fetal alcohol syndrome'' as the umbrella term describing the range of effects that can occur in an individual whose mother drank alcohol during pregnancy;

Whereas fetal alcohol spectrum disorders are the leading cause of cognitive disability in western civilization, including the United States, and are 100 percent preventable;

Whereas fetal alcohol spectrum disorders are a major cause of numerous social disorders, including learning disabilities, school failure, juvenile delinquency, homelessness, unemployment, mental illness, and crime;

Whereas the incidence rate of fetal alcohol syndrome is estimated at 1 out of 500 live births and the incidence rate of fetal alcohol spectrum disorders is estimated at 1 out of every 100 live births;

Whereas, although the economic costs of fetal alcohol spectrum disorders are difficult to estimate, the cost of fetal alcohol syndrome alone in the United States was $5,400,000,000 in 2003 and it is estimated that each individual with fetal alcohol syndrome will cost taxpayers of the United States between $1,500,000 and $3,000,000 in his or her lifetime;

Whereas, in February 1999, a small group of parents of children who suffer from fetal alcohol spectrum disorders came together with the hope that in 1 magic moment the world could be made aware of the devastating consequences of alcohol consumption during pregnancy;

Whereas the first International Fetal Alcohol Syndrome Awareness Day was observed on September 9, 1999;

Whereas Bonnie Buxton of Toronto, Canada, the co-founder of the first International Fetal Alcohol Syndrome Awareness Day, asked ''What if . . . a world full of FAS/E [Fetal Alcohol Syndrome/Effect] parents all got together on the ninth hour of the ninth day of the ninth month of the year and asked the world to remember that during the 9 months of pregnancy a woman should not consume alcohol . . . would the rest of the world listen?''; and

Whereas on the ninth day of the ninth month of each year since 1999, communities around the world have observed International Fetal Alcohol Syndrome Awareness Day: Now, therefore, be it

Resolved, That the Senate—

(1) designates September 9, 2008, as ''National Fetal Alcohol Spectrum Disorders Awareness Day''; and

(2) calls upon the people of the United States—

(A) to observe National Fetal Alcohol Spectrum Disorders Awareness Day with appropriate ceremonies—

(i) to promote awareness of the effects of prenatal exposure to alcohol;

(ii) to increase compassion for individuals affected by prenatal exposure to alcohol;

(iii) to minimize further effects of prenatal exposure to alcohol; and

(iv) to ensure healthier communities across the United States; and

(B) to observe a moment of reflection on the ninth hour of September 9, 2008, to remember that during the 9 months of pregnancy a woman should not consume alcohol.

SENATE RESOLUTION 648—RECOGNIZING THE 50TH ANNIVERSARY OF THE CROSSING OF THE NORTH POLE BY THE USS NAUTILUS (SSN 571) AND ITS SIGNIFICANCE IN THE HISTORY OF BOTH OUR NATION AND THE WORLD

Mr. DODD (for himself, Mr. LIEBERMAN, Mr. REED, and Mr. WHITEHOUSE) submitted the following resolution; which was referred to the committee on Armed Services:

S. RES. 648

Whereas the USS *Nautilus* (SSN 571), built and launched at Electric Boat in Groton, Connecticut, on January 21, 1954, was the first vessel in the world to be powered by nuclear power;

Whereas the USS *Nautilus* overcame extreme difficulties of navigation and maneuverability while submerged under the polar ice, and became the first vessel to cross the geographic North Pole on August 3, 1958;

Whereas the USS *Nautilus* continued on her voyage and became the first vessel to successfully navigate a course across the top of the world;

Whereas the USS *Nautilus*, having claimed this historic milestone and returned home to Naval Submarine Base New London, continued to establish a series of naval records in her distinguished 25-year career, including being the first submarine to journey ''20,000 leagues under the sea'';

Whereas the USS *Nautilus* completed these significant and laudable achievements during a critical phase of the Cold War, providing a source of inspiration for Americans and raising the hopes of the Free World;

Whereas the USS *Nautilus* was the first naval vessel in peacetime to receive the Presidential Unit Citation for its meritorious efforts in crossing the North Pole;

Whereas Commander William R. Anderson of the United States Navy was awarded the Legion of Merit for his role in commanding the USS *Nautilus* during its historic voyage;

Whereas the USS *Nautilus* and its contribution to world history was praised by a range of American Presidents, including President Harry Truman, President Dwight D. Eisenhower, President Lyndon B. Johnson, President Jimmy Carter, and President Bill Clinton; and

Whereas President Eisenhower described the voyage to the North Pole as a ''magnificent achievement'' from which ''the entire free world would benefit'': Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the historic significance of the journey to the North Pole undertaken by the USS *Nautilus*;

(2) commends the officers and crew of the USS *Nautilus* on the 50th anniversary of their magnificent achievement;

(3) recognizes the importance of the USS *Nautilus*' journey to the North Pole as not only a military and scientific accomplishment, but also in confirming America's longstanding interest in this vital region of the world;

(4) commends the role of the USS *Nautilus* and the United States Submarine Force in protecting the interests of the free world during the Cold War; and

(5) supports the continuing role of the United States Submarine Force in defending our Nation in the 21st century.

SENATE RESOLUTION 649—DESIGNATION SEPTEMBER 18, 2008, AS ''NATIONAL ATTENTION DEFICIT DISORDER AWARENESS DAY''

Ms. CANTWELL (for herself and Mr. SMITH) submitted the following resolution; which was referred to the Committee on the Judiciary;

S. RES. 649

Whereas Attention Deficit/Hyperactivity Disorder (also known as ADHD or ADD), is a chronic neurobiological disorder that affects both children and adults, and can significantly interfere with the ability of an individual to regulate activity level, inhibit behavior, and attend to tasks in developmentally-appropriate ways;

Whereas ADHD can cause devastating consequences, including failure in school and the workplace, antisocial behavior, encounters with the criminal justice system, interpersonal difficulties, and substance abuse;

Whereas ADHD, the most extensively studied mental disorder in children, affects an estimated 3 to 7 percent (4,000,000) of young school-age children and an estimated 4 percent (8,000,000) of adults across racial, ethnic, and socio-economic lines;

Whereas scientific studies indicate that between 10 and 35 percent of children with ADHD have a first-degree relative with past or present ADHD, and that approximately ½ of parents who had ADHD have a child with the disorder, suggesting that ADHD runs in families and inheritance is an important risk factor;

Whereas despite the serious consequences that can manifest in the family and life experiences of an individual with ADHD, studies indicate that less than 85 percent of adults with the disorder are diagnosed and less than ½ of children and adults with the disorder receive treatment and, furthermore, poor and minority communities are particularly underserved by ADHD resources;

Whereas the Surgeon General, the American Medical Association, the American Psychiatric Association, the American Academy of Child and Adolescent Psychiatry, the American Psychological Association, the American Academy of Pediatrics, the Centers for Disease Control and Prevention, and the National Institutes of Mental Health, among others, recognize the need for proper diagnosis, education, and treatment of ADHD;

Whereas the lack of public knowledge and understanding of the disorder play a significant role in the overwhelming numbers of undiagnosed and untreated cases of ADHD, and the dissemination of inaccurate, misleading information contributes as an obstacle for diagnosis and treatment;

Whereas lack of knowledge combined with issues of stigma have a particularly detrimental effect on the diagnosis and treatment of the disorder;

Whereas there is a need for education of health care professionals, employers, and educators about the disorder and a need for well-trained mental health professionals capable of conducting proper diagnosis and treatment activities; and

Whereas studies by the National Institute of Mental Health and others consistently reveal that through proper comprehensive diagnosis and treatment, the symptoms of ADHD can be substantially decreased and quality of life can be improved: Now, therefore, be it

Resolved, That the Senate—

(1) designates September 18, 2008, as ''National Attention Deficit Disorder Awareness Day'';

(2) recognizes Attention Deficit/Hyperactivity Disorder (ADHD) as a major public health concern;

(3) encourages all Americans to find out more about ADHD, support ADHD mental health services, and seek the appropriate treatment and support, if necessary;

(4) expresses the sense of the Senate that the Federal Government has a responsibility to—

(A) endeavor to raise awareness about ADHD; and

(B) continue to consider ways to improve access and quality of mental health services dedicated to improving the quality of life of children and adults with ADHD; and

(5) calls on Federal, State, and local administrators and the people of the United States to observe the day with appropriate programs and activities.

SENATE RESOLUTION 650—RECOGNIZING THE IMPORTANCE OF NATIONAL NEIGHBOR DAY, NATIONAL GOOD NEIGHBOR DAY, AND NATIONAL NEIGHBORHOOD DAY

Mr. REED (for himself, Mr. BAUCUS, Mr. WHITEHOUSE, and Mr. TESTER) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 650

Whereas gestures of welcoming and kindness between neighbors foster community peace, harmony, and understanding;

Whereas being good neighbors to those around us encourages mutual respect and friendship;

Whereas neighborhoods facilitate positive civic engagement and enhance the foundation of an effective and more caring society;

Whereas National Neighbor Day, celebrated annually on the Sunday before Memorial Day weekend in May, was first celebrated in 1993 in Westerly, Rhode Island, to promote equality, dignity, and respect and to encourage love of one's neighbor;

Whereas National Good Neighbor Day, celebrated annually on the fourth Sunday of September, was first celebrated in the 1970s in Lakeside, Montana, to place a greater emphasis on the importance of community and being a good neighbor; and

Whereas National Neighborhood Day, celebrated annually on the third Sunday of September, was first celebrated in Providence, Rhode Island, to inspire, build, and sustain neighborhood relationships and foster civic engagement: Now, therefore, be it

Resolved, That the Senate calls upon the people of the United States and interested groups and organizations—

(1) to celebrate the goals of National Neighbor Day, National Good Neighbor Day, and National Neighborhood Day in 2008; and

(2) to undertake appropriate ceremonies, events, and activities associated with those goals.

SENATE RESOLUTION 651—HONORING THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION ON THE 50TH ANNIVERSARY OF ITS ESTABLISHMENT

Mr. NELSON of Florida (for himself, Mrs. BOXER, Mr. BROWN, Mr. CARDIN, Mr. CORNYN, Mrs. HUTCHISON, Ms. LANDRIEU, Mr. MARTINEZ, Ms. MIKULSKI, Mr. OBAMA, Mr. SESSIONS, Mr. SHELBY, Mr. VITTER, and Mr.

VOINOVICH) submitted the following resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. RES. 651

Whereas the National Aeronautics and Space Administration was established on July 29, 1958;

Whereas on May 5, 1961, NASA successfully launched America's first manned spacecraft, Freedom 7, piloted by Alan B. Shepard, Jr.;

Whereas on February 20, 1962, John Glenn became the first American astronaut to orbit the earth;

Whereas in July of 1969 President John Kennedy's vision of landing a man on the moon and returning him safely to Earth was realized with the Apollo 11 mission, commanded by Neil A. Armstrong, Lunar Module Pilot Edwin ''Buzz'' Aldrin, Jr., and Command Module pilot Michael Collins;

Whereas on April 12, 1981, NASA began a new era of human space flight and exploration with the launch of the first Space Shuttle Columbia, commanded by John W. Young and piloted by Robert L. ''Bob'' Crippen;

Whereas on June 18, 1983, Dr. Sally Ride became the first American woman in space as a crewmember of Space Shuttle Challenger for STS–7;

Whereas NASA has greatly expanded our knowledge and understanding of our planet and solar system through various unmanned vehicles utilized on numerous missions;

Whereas, during the Cold War, NASA's achievements served as a source of national pride and captured the imagination of the world by demonstrating a peaceful use of our technological capabilities;

Whereas NASA now serves as a model for international cooperation and American leadership through the International Space Station and other scientific endeavors;

Whereas thanks to NASA and the far-reaching gaze of the Hubble Space Telescope, we have seen further into our universe than ever before;

Whereas NASA space probes have landed on or flown by eight of the planets in our solar system;

Whereas the aeronautics research by NASA has led to great discoveries and advances in aircraft design and aviation;

Whereas the work done by NASA has expanded the scope of human knowledge, created new technologies, and inspired young men and women to enter scientific and engineering careers;

Whereas in the last fifty years, NASA has positively impacted almost every facet of our lives; and

Whereas, thanks to the heroism, courage, and supreme sacrifice of our astronaut corps over the last five decades, we are now able to live and work in space for the benefit of all humankind: Now, therefore, be it

Resolved, by the Senate That the Senate——

(1) honors the men and women of the National Aeronautics and Space Administration on the occasion of its 50th Anniversary;

(2) acknowledges the value of NASA's discoveries and accomplishments; and

(3) pledges to maintain America's position as the world leader in earth and space science, aeronautics and space exploration and technology.

AMENDMENTS SUBMITTED AND PROPOSED

SA 5259. Ms. CANTWELL (for Mr. LAUTENBERG (for himself and Mr. SMITH)) proposed an amendment to the bill H.R. 2095, to amend title 49, United States Code, to prevent railroad fatalities, injuries, and hazardous materials releases, to authorize the Federal Railroad Safety Administration, and for other purposes.

SA 5260. Ms. CANTWELL (for Mr. SMITH (for himself, Mr. KOHL, Mr. SPECTER, and Mr. CARDIN)) proposed an amendment to the bill H.R. 2608, to amend section 402 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to provide, in fiscal years 2009 through 2011, extensions of supplemental security income for refugees, asylees, and certain other humanitarian immigrants, and to amend the Internal Revenue Code of 1986 to collect unemployment compensation debts resulting from fraud..

SA 5261. Ms. CANTWELL (for Mr. SMITH) proposed an amendment to the bill H.R. 2608, supra.

SA 5262. Ms. CANTWELL (for Mrs. HUTCHISON) proposed an amendment to the bill S. 2507, to address the digital television transition in border states.

SA 5263. Ms. CANTWELL (for Mr. LEVIN) proposed an amendment to the joint resolution S.J. Res. 45, expressing the consent and approval of Congress to an inter-state compact regarding water resources in the Great Lakes—St. Lawrence River Basin..

SA 5264. Mr. REID (for Mr. LIEBERMAN) proposed an amendment to the bill H.R. 5683, to make certain reforms with respect to the Government Accountability Office, and for other purposes.

TEXT OF AMENDMENTS

SA 5259. Ms. CANTWELL (for Mr. LAUTENBERG (for himself and Mr. SMITH)) proposed an amendment to the bill H.R. 2095, to amend title 49, United States Code, to prevent railroad fatalities, injuries, and hazardous materials releases, to authorize the Federal Railroad Safety Administration, and for other purposes; as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; AMENDMENT OF TITLE 49.

(a) SHORT TITLE.—This Act may be cited as the ''Railroad Safety Enhancement Act of 2008''.

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

(c) AMENDMENT OF TITLE 49.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 2. DEFINITIONS.

(a) IN GENERAL.—In this Act:

(1) CROSSING.—The term ''crossing'' means a location within a State, other than a location where one or more railroad tracks cross one or more railroad tracks at grade where—

(A) a public highway, road, or street, or a private roadway, including associated sidewalks and pathways, crosses one or more railroad tracks either at grade or grade-separated; or

(B) a pathway explicitly authorized by a public authority or a railroad that is dedicated for the use of nonvehicular traffic, including pedestrians, bicyclists, and others, that is not associated with a public highway, road, or street, or a private roadway, crosses one or more railroad tracks either at grade or grade-separated.

(2) DEPARTMENT.—The term ''Department'' means the Department of Transportation.

(3) RAILROAD.—The term ''railroad'' has the meaning given that term by section 20102 of title 49, United States Code.

(4) RAILROAD CARRIER.—The term ''railroad carrier'' has the meaning given that term by section 20102 of title 49, United States Code.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Transportation.

(6) STATE.—The term ''State'' means a State of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(b) IN TITLE 49.—Section 20102 is amended—

(1) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively;

(2) by inserting before paragraph (2), as redesignated, the following:

''(1) 'Class I railroad' means a railroad carrier that has annual carrier operating revenues that meet the threshold amount for Class I carriers, as determined by the Surface Transportation Board under section 1201.1-1 of title 49, Code of Federal Regulations.''; and

(3) by adding at the end thereof the following:

''(4) 'safety-related railroad employee' means—

''(A) a railroad employee who is subject to chapter 211;

''(B) another operating railroad employee who is not subject to chapter 211;

''(C) an employee who maintains the right of way of a railroad carrier;

''(D) an employee of a railroad carrier who is a hazmat employee as defined in section 5102(3) of this title;

''(E) an employee who inspects, repairs, or maintains locomotives, passenger cars or freight cars; and

''(F) any other employee of a railroad carrier who directly affects railroad safety, as determined by the Secretary.''.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

Section 20117(a) is amended to read as follows:

''(a) IN GENERAL.—

''(1) There are authorized to be appropriated to the Secretary of Transportation to carry out this part and to carry out responsibilities under chapter 51 as delegated or authorized by the Secretary—

''(A) $186,000,000 for fiscal year 2008;

''(B) $221,000,000 for fiscal year 2009;

''(C) $231,000,000 for fiscal year 2010;

''(D) $237,000,000 for fiscal year 2011;

''(E) $244,000,000 for fiscal year 2012; and

''(F) $251,000,000 for fiscal year 2013.

''(2) With amounts appropriated pursuant to paragraph (1), the Secretary may designate the following amounts for research and development:

''(A) $36,000,000.

''(B) $34,000,000.

''(C) $36,000,000.

''(D) $37,000,000.

''(E) $38,000,000.

''(F) $39,000,000.

''(3) With amounts appropriated pursuant to paragraph (1), the Secretary shall purchase Gage Restraint Measurement System vehicles and track geometry vehicles or other comparable technology as needed to assess track safety, consistent with the results of the track inspection study required by section 403 of the Railroad Safety Enhancement Act of 2008.

''(4) Such sums as may be necessary from the amount appropriated pursuant to paragraph (1) for each of the fiscal years 2008 through 2013 shall be made available to the Secretary for personnel in regional offices and in Washington, D.C., whose duties primarily involve rail security.''.

TITLE I—RAILROAD SAFETY RISK REDUCTION AND STRATEGY

SEC. 101. ESTABLISHMENT OF CHIEF SAFETY OFFICER.

Section 103 is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (e), (f), and (g);

(2) by inserting after subsection (b) the following:

''(c) SAFETY AS HIGHEST PRIORITY.—In carrying out its duties, the Administration shall consider safety as the highest priority, recognizing the clear intent, encouragement, and dedication of Congress to the furtherance of the highest degree of safety in railroad transportation.

''(d) CHIEF SAFETY OFFICER.—The Administration shall have an Associate Administrator for Railroad Safety appointed in the career service by the Secretary. The Associate Administrator shall be the Chief Safety Officer of the Administration. The Associate Administrator shall carry out the duties and powers prescribed by the Administrator; and

(3) by striking ''(c)(1)'' in subsection (f), as redesignated, and inserting ''(e)(1)''.

SEC. 102. RAILROAD SAFETY STRATEGY.

(a) SAFETY GOALS.—In conjunction with existing federally-required and voluntary strategic planning efforts ongoing at the Department and the Federal Railroad Administration on the date of enactment of this Act, the Secretary shall develop a long-term strategy for improving railroad safety to cover a period of not less than 5 years. The strategy shall include an annual plan and schedule for achieving, at a minimum, the following goals:

(1) Reducing the number and rates of accidents, injuries, and fatalities involving railroads including train collisions, derailments, and human factors.

(2) Improving the consistency and effectiveness of enforcement and compliance programs.

(3) Improving the identification of high-risk highway-rail grade crossings and strengthening enforcement and other methods to increase grade crossing safety.

(4) Improving research efforts to enhance and promote railroad safety and performance.

(5) Preventing railroad trespasser accidents, injuries, and fatalities.

(6) Improving the safety of railroad bridges, tunnels, and related infrastructure to prevent accidents, injuries, and fatalities caused by catastrophic failures and other bridge and tunnel failures.

(b) RESOURCE NEEDS.—The strategy and annual plan shall include estimates of the funds and staff resources needed to accomplish the goals established by subsection (a). Such estimates shall also include the staff skills and training required for timely and effective accomplishment of each such goal.

(c) SUBMISSION WITH THE PRESIDENT'S BUDGET.—The Secretary shall submit the strategy and annual plan to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure at the same time as the President's budget submission.

(d) ACHIEVEMENT OF GOALS.—

(1) PROGRESS ASSESSMENT.—No less frequently than annually, the Secretary shall assess the progress of the Department toward achieving the strategic goals described in subsection (a). The Secretary shall identify any deficiencies in achieving the goals within the strategy and develop and institute measures to remediate such deficiencies.

(2) REPORT TO CONGRESS.—Not later than November 1st of each year, the Secretary shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the performance of the Federal Railroad Administration containing the progress assessment required by paragraph (1) toward achieving the goals of the railroad safety strategy and annual plans under subsection (a).

SEC. 103. RAILROAD SAFETY RISK REDUCTION PILOT PROGRAM.

(a) IN GENERAL.—Subchapter II of chapter 201 is amended by adding at the end thereof the following:

''§ 20156. Railroad safety risk reduction pilot program

''(a) PILOT PROGRAM.—

''(1) IN GENERAL.—In conjunction with ongoing behavior-based safety research at the Department of Transportation, the Secretary shall develop a 4-year railroad safety risk reduction pilot program to systematically evaluate and manage railroad safety risks with the goal of reducing the numbers and rates of railroad accidents, injuries, and fatalities. Not later than 1 year after the date of enactment of the Railroad Safety Enhancement Act of 2008, the Secretary shall, in coordination with selected railroads, railroad facilities, nonprofit employee labor organizations that represent safety-related railroad employees employed at such railroad or railroad facility, and any other entities that the Secretary determines to be relevant, at a minimum—

''(A) identify the aspects of a selected railroad or railroad facility, including operating practices, infrastructure, equipment, employee levels and schedules, safety culture, management structure, employee training, and other matters, including those not covered by railroad safety regulations or other Federal regulations, that impact railroad safety;

''(B) evaluate how these aspects of a selected railroad or railroad facility increase or decrease risks to railroad safety;

''(C) develop a safety risk reduction program to improve the safety of a selected railroad or railroad facility by reducing the numbers and rates of accidents, injuries, and fatalities through—

''(i) the mitigation of the aspects of a selected railroad or railroad facility that increase risks to railroad safety; and

''(ii) the enhancement of aspects of a selected railroad or railroad facility that decrease risks to railroad safety; and

''(D) incorporate into the program the consideration and use of existing, new, or novel technology, operating practices, risk management practices or other behavior-based practices that could improve railroad safety at the selected railroad or railroad facility.

''(2) IMPLEMENTATION DEADLINE.—Not later than 2 years after the date of enactment of the Railroad Safety Enhancement Act of 2008, the selected railroad or railroad facility shall implement the safety risk reduction

program developed under paragraph (1)(C) on the selected railroad or railroad facility and ensure that all employees at the selected railroad or railroad facility have received training related to the program.

''(b) SELECTION OF RAILROAD OR RAILROAD FACILITY FOR PILOT PROGRAM.—Not later than 6 months after the date of enactment of the Railroad Safety Enhancement Act of 2008, the Secretary shall develop a voluntary application process to select 1 or more railroad carriers or railroad facilities where the pilot project will be implemented. The application process shall include criteria for rating applicants, such as safety performance, accident and incident history, existence of risk management or behavior-based practices at the railroad or railroad facility, number of employees employed at the railroad or railroad facility, and other relevant criteria determined by the Secretary. If more than 1 railroad or railroad facility is selected, the Secretary shall select railroads and railroad facilities that are representative of the railroad industry as a whole, if possible.

''(c) EVALUATION.—Not later than 6 months after the completion of the safety risk reduction program pilot program, the Secretary shall submit a report to Congress evaluating the pilot program, which shall include—

''(1) a summary of the railroad safety risk reduction pilot program and description of the actions taken by the Secretary and selected railroad or railroad facilities during the program;

''(2) an analysis of the difference in the number and rates of accidents, injuries, and fatalities at a selected railroad or railroad facility before and after the implementation of the risk reduction pilot program at a selected railroad or railroad facility; and

''(3) guidelines on the preparation and implementation of railroad safety risk reduction program for the railroad carriers required to develop such plans under section 20157 that reflect the best practices developed during the pilot program.

''(d) GRANTS.—The Secretary shall establish a grant program for implementation of the railroad safety risk reduction pilot program. Railroads and railroad facilities selected by the Secretary shall be eligible for grants.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation $1,000,000 for fiscal years 2009 and 2010 to carry out subsection (d).''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201 is amended by inserting after the item relating to section 20155 the following:

''20156. Railroad safety risk reduction pilot program''.

SEC. 104. RAILROAD SAFETY RISK REDUCTION PROGRAM.

(a) IN GENERAL.—Subchapter II of chapter 201, as amended by section 103, is amended by adding at end thereof the following:

''§ 20157. Railroad safety risk reduction program

''(a) IN GENERAL.—

''(1) PROGRAM REQUIREMENT.—Not later than 5 years after the date of enactment, the Secretary, by regulation, shall require each railroad carrier that is a Class I railroad, a railroad carrier that has inadequate safety performance (as determined by the Secretary), or a railroad that provides intercity passenger or commuter rail passenger transportation—

''(A) to develop a railroad safety risk reduction program under subsection (d) that systematically evaluates system-wide railroad safety risks and manages those risks in order to reduce the numbers and rates of railroad accidents, injuries, and fatalities;

''(B) to submit its program, including any required plans, to the Federal Railroad Administration for its review and approval; and

''(C) to implement the program and plans approved by the Federal Railroad Administration.

''(2) RELIANCE ON PILOT PROGRAM.—The Secretary shall use the information and experience gathered through the pilot program under section 20156 in developing regulations under this section.

''(3) WAIVERS.—Under section 20103(d) of this chapter the Secretary may grant a waiver to a railroad carrier from compliance with all or a part of the requirements of this section if the Secretary determines that the safety performance of the railroad carrier is sufficient to warrant the waiver.

''(4) VOLUNTARY COMPLIANCE.—A railroad carrier that is not required to submit a railroad safety risk reduction program under this section may voluntarily submit a program that meets the requirements of this section to the Federal Railroad Administration. The Federal Railroad Administration shall approve or disapprove any program submitted under this paragraph.

''(b) CERTIFICATION.—The chief official responsible for safety of each railroad carrier required to submit a railroad safety risk reduction program under subsection (a) shall certify that the contents of the program are accurate and that the railroad will implement the contents of the program as approved by the Federal Railroad Administration.

''(c) RISK ANALYSIS.—In developing its railroad safety risk reduction program each railroad required to submit such a program under subsection (a) shall identify and analyze the aspects of its railroad, including operating practices, infrastructure, equipment, employee levels and schedules, safety culture, management structure, employee training, and other matters, including those not covered by railroad safety regulations or other Federal regulations, that impact railroad safety.

''(d) PROGRAM ELEMENTS.—

''(1) IN GENERAL.—Each railroad required to submit a railroad safety risk reduction program under subsection (a) shall develop a comprehensive safety risk reduction program to improve safety by reducing the number and rates of accidents, injuries, and fatalities that is based on the risk analysis required by subsection (c) through—

''(A) the mitigation of aspects that increase risks to railroad safety; and

''(B) the enhancement of aspects that decrease risks to railroad safety.

''(2) REQUIRED COMPONENTS.—Each railroad's safety risk reduction program shall include a technology implementation plan that meets the requirements of subsection (e) and a fatigue management plan that meets the requirements of subsection (f).

''(e) TECHNOLOGY IMPLEMENTATION PLAN.—

''(1) IN GENERAL.—As part of its railroad safety risk reduction program, a railroad required to submit a railroad safety risk reduction program under subsection (a) shall develop a 10-year technology implementation plan that describes the railroad's plan for development, adoption, implementation, and use of current, new, or novel technologies on its system over a 10-year period to reduce safety risks identified under the railroad safety risk reduction program.

''(2) TECHNOLOGY ANALYSIS.—A railroad's technology implementation plan shall include an analysis of the safety impact, feasibility, and cost and benefits of implementing technologies, including processor-based technologies, positive train control systems (as defined in section 20158(b)), electronically controlled pneumatic brakes, rail integrity inspection systems, rail integrity warning systems, switch position indicators, trespasser prevention technology, highway rail grade crossing technology, and other new or novel railroad safety technology, as appropriate, that may mitigate risks to railroad safety identified in the risk analysis required by subsection (c).

''(3) IMPLEMENTATION SCHEDULE.—A railroad's technology implementation plan shall contain a prioritized implementation schedule for the development, adoption, implementation, and use of current, new, or novel technologies on its system to reduce safety risks identified under the railroad safety risk reduction program.

''(f) FATIGUE MANAGEMENT PLAN.—

''(1) IN GENERAL.—As part of its railroad safety risk reduction program, a railroad required to submit a railroad safety risk reduction program under subsection (a) for which the analysis under subsection (c) has shown fatigue to be a significant source of risk shall develop a fatigue management plan that is designed to reduce the fatigue experienced by safety-related railroad employees and to reduce the likelihood of accidents, injuries, and fatalities caused by fatigue.

''(2) TARGETED FATIGUE COUNTERMEASURES.—A railroad's fatigue management plan shall take into account the varying circumstances of operations by the railroad on different parts of its system, and shall prescribe appropriate fatigue countermeasures to address those varying circumstances.

''(3) ADDITIONAL ELEMENTS.—A railroad shall consider the need to include in its fatigue management plan elements addressing each of the following items, as applicable:

''(A) Employee education and training on the physiological and human factors that affect fatigue, as well as strategies to reduce or mitigate the effects of fatigue, based on the most current scientific and medical research and literature.

''(B) Opportunities for identification, diagnosis, and treatment of any medical condition that may affect alertness or fatigue, including sleep disorders.

''(C) Effects on employee fatigue of an employee's short-term or sustained response to emergency situations, such as derailments and natural disasters, or engagement in other intensive working conditions.

''(D) Scheduling practices for employees, including innovative scheduling practices for employees, including scheduling procedures, on-duty call practices, work and rest cycles, increases in consecutive days off for employees, changes in shift patterns, appropriate scheduling practices for varying types of work, and other aspects of employee scheduling that would reduce employee fatigue and cumulative sleep loss.

''(E) Methods to minimize accidents and incidences that occur as a result of working at times when scientific and medical research have shown increased fatigue disrupts employees' circadian rhythm.

''(F) Alertness strategies, such as policies on napping, to address acute sleepiness and fatigue while an employee is on duty.

''(G) Opportunities to obtain restful sleep at lodging facilities, including employee sleeping quarters provided by the railroad carrier.

''(H) The increase of the number of consecutive hours of off-duty rest, during which an employee receives no communication from the employing railroad carrier or its managers, supervisors, officers, or agents.

''(I) Avoidance of abrupt changes in rest cycles for employees.

''(J) Additional elements that the Secretary considers appropriate.

''(g) CONSENSUS.—

''(1) IN GENERAL.—Each railroad required to submit a railroad safety risk reduction program under subsection (a) shall consult with, employ good faith and use its best efforts to reach agreement with, all of its directly affected employees, including any non-profit labor organization representing a class or craft of directly affected employees of the railroad carrier, on the contents of the safety risk reduction program.

''(2) STATEMENT.—If the railroad carrier and its directly affected employees, including any nonprofit employee labor organization representing a class or craft of directly affected employees of the railroad carrier, cannot reach consensus on the proposed contents of the plan, then directly affected employees and such organization may file a statement with the Secretary explaining their views on the plan on which consensus was not reached. The Secretary shall consider such views during review and approval of the program.

''(h) ENFORCEMENT.—The Secretary shall have the authority to assess civil penalties pursuant to chapter 213 for a violation of this section, including the failure to submit, certify, or comply with a safety risk reduction program, technology implementation plan, or fatigue management plan.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201, as amended by section 103, is further amended by inserting after the item relating to section 20156 the following:

''20157. Railroad safety risk reduction program''.

SEC. 105. POSITIVE TRAIN CONTROL SYSTEM IMPLEMENTATION.

(a) IN GENERAL.—Subchapter II of chapter 201, as amended by section 104, is further amended by adding at end thereof the following:

''§ 20158. Positive train control system implementation

''(a) IN GENERAL.—The Secretary of Transportation shall ensure that each railroad required to submit a railroad safety risk reduction program pursuant to section 20157 that includes in its technology implementation plan a schedule for implementation of a positive train control system complies with that schedule and implements its positive train control system by December 31, 2018, unless the Secretary determines that a railroad shall implement its positive train control system by an earlier date.

''(b) POSITIVE TRAIN CONTROL SYSTEM DEFINED.—The term 'positive train control system' means a system designed to prevent train-to-train collisions, overspeed derailments, and incursions into roadway worker work limits.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201, as amended by section 104, is further amended by inserting after the item relating to section 20157 the following:

''20158. Positive train control system implementation''.

SEC. 106. HOURS-OF-SERVICE REFORM.

(a) CHANGE IN DEFINITION OF SIGNAL EMPLOYEE.—Section 21101(4) is amended—

(1) by striking ''employed by a railroad carrier''; and

(2) by inserting ''railroad'' after ''maintaining''.

(b) LIMITATION ON DUTY HOURS OF TRAIN EMPLOYEES.—Section 21103 is amended—

(1) by striking subsection (a) and inserting the following:

''(a) IN GENERAL.—Except as provided in subsection (d) of this section, a railroad carrier and its officers and agents may not require or allow a train employee to—

''(1) remain or go on duty in any calendar month where the employee had spent a total of 276 hours—

''(A) on duty;

''(B) waiting for transportation, or in deadhead transportation, to a place of final release; or

''(C) in any other mandatory service for the carrier;

''(2) remain or go on duty for a period in excess of 12 consecutive hours;

''(3) remain or go on duty unless that employee has had at least 10 consecutive hours off duty during the prior 24 hours; or

''(4) remain or go on duty after that employee has initiated an on-duty period each day for—

''(A) 6 consecutive days, unless that employee has had at least 48 consecutive hours off duty at the employee's home terminal during which time the employee is unavailable for any service for any railroad carrier; or

''(B) 7 consecutive days, unless that employee has had at least 72 consecutive hours off duty at the employee's home terminal during which time the employee is unavailable for any service for any railroad carrier, if—

''(i) a collective bargaining agreement expressly provides for such a schedule;

''(ii) such a schedule is provided for by a pilot program authorized by a collective bargaining agreement; or

''(iii) such a schedule is provided for by a pilot program under section 21108 of this chapter related to employees' work and rest cycles.

The Secretary may waive paragraph (4), consistent with the procedural requirements of section 20103, if a collective bargaining agreement provides a different arrangement and such an arrangement is in the public interest and consistent with railroad safety.'';

(2) by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following:

''(c) LIMBO TIME LIMITATION AND ADDITIONAL REST REQUIREMENT.—

''(1) A railroad carrier may not require or allow an employee to remain or go on duty in excess of 15 hours of time on duty and time waiting for deadhead transportation on a train, not including interim rest periods unless the train carrying the employee is directly delayed by—

''(A) a casualty;

''(B) an accident;

''(C) an act of God;

''(D) a derailment;

''(E) a major equipment failure that prevents the train from advancing; or

''(F) a delay resulting from a cause unknown and unforeseeable to a railroad carrier or its officer or agent in charge of the employee when the employee left a terminal.

''(2) Each railroad carrier shall report to the Secretary, in accordance with procedures established by the Secretary, each instance where an employee subject to this section spends time waiting for deadhead transportation on a train in excess of the requirements of paragraph (1).

''(3) A railroad carrier and its officers and agents shall provide, at the election of employees subject to this section at the beginning of the employee's off-duty period additional time off duty equal to the number of hours that such sum exceeds 12 hours if—

''(A) the time spent waiting for transportation, or in deadhead transportation, from a duty assignment to the place of final release that is not time on duty, plus

''(B) the time on duty,

exceeds 12 consecutive hours.''; and

(3) by adding at the end thereof the following:

''(e) COMMUNICATION DURING TIME OFF DUTY.—During a train employee's minimum off-duty period of 10 consecutive hours, as provided under subsection (a), during an interim period of at least 4 consecutive hours available for rest under subsection (b)(7), or during additional off duty hours elected to be taken by an employee under subsection (c)(3), a railroad carrier, and its officers and agents, shall not communicate with the train employee by telephone, by pager, or in any other manner that could reasonably be expected to disrupt the employee's rest. Nothing in this subsection shall prohibit communication necessary to notify an employee of an emergency situation, as defined by the Secretary. The Secretary may waive the requirements of this paragraph for commuter or intercity passenger railroads if the Secretary determines that such a waiver will not reduce safety and is necessary to maintain such railroads' efficient operations and on-time performance of its trains.''.

(c) LIMITATION ON DUTY HOURS OF SIGNAL EMPLOYEES.—Section 21104 is amended—

(1) by striking subsection (a) and inserting the following:

''(a) IN GENERAL.—Except as provided in subsection (c) of this section, a railroad carrier and its officers and agents may not require or allow its signal employee to remain or go on duty and a contractor or subcontractor to a railroad carrier and its officers and agents may not require or allow one of its signal employees to remain or go on duty''—

''(1) for a period in excess of 12 consecutive hours; or

''(2) unless that employee has had at least 10 consecutive hours off duty during the prior 24 hours.'';

(2) by striking ''duty, except that up to one hour of that time spent returning from the final trouble call of a period of continuous or broken service is time off duty.'' in subsection (b)(3) and inserting ''duty.'';

(3) by inserting ''A signal employee may not be allowed to remain or go on duty under the emergency authority provided under this subsection to conduct routine repairs, routine maintenance, or routine inspection of signal systems.'' after ''service.'' in subsection (c);

(4) by adding at the end the following:

''(d) COMMUNICATION DURING TIME OFF DUTY.—During a signal employee's minimum off-duty period of 10 consecutive hours, as provided under subsection (a), a railroad carrier or a contractor or subcontractor to a railroad carrier, and its officers and agents, shall not communicate with the signal employee by telephone, by pager, or in any other manner that could reasonably be expected to disrupt the employee's rest. Nothing in this subsection shall prohibit communication necessary to notify an employee of an emergency situation, as defined by the Secretary.

''(e) EXCLUSIVITY.—The hours of service, duty hours, and rest periods of signal employees shall be governed exclusively by this chapter. Signal employees operating motor vehicles shall not be subject to any hours of service rules, duty hours or rest period rules promulgated by any Federal authority, including the Federal Motor Carrier Safety Administration, other than the Federal Railroad Administration.''.

(d) ALTERNATE HOURS OF SERVICE REGIME.—

(1) APPLICATION OF HOURS OF SERVICE REGIME.—Section 21102 is amended—

(A) by striking the section caption and inserting the following:

''§ 21102. Nonapplication, exemption, and alternate hours of service regime'' ; and

(B) by adding at the end thereof the following:

''(c) ALTERNATE HOURS OF SERVICE REGIME.—A railroad carrier and its directly affected employees or a non-profit employee

labor organization that represents such employees may jointly develop and submit for approval to the Secretary an alternate hours of service regime to that provided in this chapter that would increase the maximum hours an employee may be required or allowed to go or remain on duty or decrease the minimum hours an employee may be required to rest and would become effective no earlier than 1 year after the date of enactment of the Railroad Safety Enhancement Act of 2008. The Secretary may consider such a request anytime after the date of enactment of the Railroad Safety Enhancement Act of 2008 and may approve such a request only after providing an opportunity for public notice and comment and determining that the proposed hours of service regime is in the public interest and will not adversely affect railroad safety. The exemption shall be for a specific period of time and shall be subject to review upon a schedule determined appropriate by the Secretary.

''(d) APPLICATION OF HOURS OF SERVICE REGIME TO COMMUTER AND INTERCITY PASSENGER RAILROAD TRAIN EMPLOYEES.—

''(1) When providing commuter rail passenger transportation or intercity rail passenger transportation, the limitations on duty hours for train employees of railroad carriers, including public authorities operating passenger service, shall be solely governed by old section 21103 until the earlier of—

''(A) the effective date of regulations prescribed by the Secretary under section 21109(b) of this chapter; or

''(B) the date that is 3 years following the date of enactment of the Railroad Safety Enhancement Act of 2008.

''(2) After the date on which old section 21103 ceases to apply, pursuant to paragraph (1), to the limitations on duty hours for train employees of railroad carriers with respect to the provision of commuter rail passenger transportation or intercity rail passenger transportation, the limitations on duty hours for train employees of such railroad carriers shall be governed by new section 21103, except as provided in paragraph (3).

''(3) After the effective date of the regulations prescribed by the Secretary under section 21109(b) of this title, such carriers shall—

''(A) comply with the limitations on duty hours for train employees with respect to the provision of commuter rail passenger transportation or intercity rail passenger transportation as prescribed by such regulations; and

''(B) be exempt from complying with the provisions of old section 21103 and new section 21103 for such employees.

''(4) In this subsection:

''(A) The terms 'commuter rail passenger transportation' and 'intercity rail passenger transportation' have the meaning given those terms in section 24102 of this title.

''(C) The term 'new section 21103' means section 21103 of this chapter as amended by the Railroad Safety Enhancement Act of 2008.

''(D) The term 'old section 21103' means section 21103 of this chapter as it was in effect on the day before the enactment of that Act.''.

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 211 is amended by striking the item relating to section 21102 and inserting the following:

''21102. Nonapplication, exemption, and alternate hours of service regime''.

(e) REGULATORY AUTHORITY.—

(1) IN GENERAL.—Chapter 211 is amended by adding at the end thereof the following:

''§ 21109. Regulatory authority

''(a) IN GENERAL.—In order to improve safety and reduce employee fatigue, the Secretary may prescribe regulations—

''(1) to reduce the maximum hours an employee may be required or allowed to go or remain on duty to a level less than the level established under this chapter;

''(2) to increase the minimum hours an employee may be required or allowed to rest to a level greater than the level established under this chapter;

''(3) to limit or eliminate the amount of time an employee spends waiting for or in deadhead transportation to the place of final release that is considered neither on duty nor off duty under this chapter;

''(4) to make changes to the number of hours an employee may spend waiting on a train for deadhead transportation to the place of final release that is considered neither on duty nor off duty that provide for an equivalent level of safety as the level established under this chapter;

''(5) to make changes to the requirements of off-duty communications with employees that provide for an equivalent level of safety as the level established under this chapter;

''(6) for signal employees—

''(A) to limit or eliminate the amount of time that is considered to be neither on duty nor off duty under this chapter that an employee spends returning from an outlying worksite after scheduled duty hours or returning from a trouble call to the employee's headquarters or directly to the employee's residence; and

''(B) to increase the amount of time that constitutes a release period, that does not break the continuity of service and is considered time off duty; and

''(7) to require other changes to railroad operating and scheduling practices, including unscheduled duty calls, that could affect employee fatigue and railroad safety.

''(b) REGULATIONS GOVERNING THE HOURS OF SERVICE OF TRAIN EMPLOYEES OF COMMUTER AND INTERCITY PASSENGER RAILROAD CARRIERS.—Within 3 years after the date of enactment of the Railroad Safety Enhancement Act of 2008, the Secretary shall prescribe regulations and issue orders to establish hours of service requirements for train employees engaged in commuter rail passenger transportation and intercity rail passenger transportation (as defined in section 24102 of this title) that may differ from the requirements of this chapter. Such regulations and orders may address railroad operating and scheduling practices, including unscheduled duty calls, communications during time off duty, and time spent in or waiting for deadhead transportation to the place of final release, that could affect employee fatigue and railroad safety.

''(c) CONSIDERATIONS.—In issuing regulations under subsection (a) the Secretary shall consider scientific and medical research related to fatigue and fatigue abatement, railroad scheduling and operating practices that improve safety or reduce employee fatigue, a railroad's use of new or novel technology intended to reduce or eliminate human error, the variations in freight and passenger railroad scheduling practices and operating conditions, the variations in duties and operating conditions for employees subject to this chapter, a railroad's required or voluntary use of fatigue management plans covering employees subject to this chapter, and any other relevant factors.

''(d) TIME LIMITS.—If the Secretary requests that the Railroad Safety Advisory Committee accept the task of developing regulations under subsection (a) or (b) and the Committee accepts the task, the Committee shall reach consensus on the rulemaking within 18 months after accepting the task. If the Committee does not reach consensus within 18 months after the Secretary makes the request, the Secretary shall prescribe appropriate regulations within 18 months. If the Secretary does not request that the Railroad Safety Advisory Committee accept the task of developing regulations under subsection (a) or (b), the Secretary shall prescribe regulations within 3 years after the date of enactment of the Railroad Safety Enhancement Act of 2008.

''(e) PILOT PROJECTS.—

''(1) IN GENERAL.—Not later than 2 years after the date of enactment of the Railroad Safety Enhancement Act of 2008, the Secretary shall conduct at least 2 pilot projects of sufficient size and scope to analyze specific practices which may be used to reduce fatigue for train and engine and other railroad employees as follows:

''(A) A pilot project at a railroad or railroad facility to evaluate the efficacy of communicating to employees notice of their assigned shift time 10 hours prior to the beginning of their assigned shift as a method for reducing employee fatigue.

''(B) A pilot project at a railroad or railroad facility to evaluate the efficacy of requiring railroads who use employee scheduling practices that subject employees to periods of unscheduled duty calls to assign employees to defined or specific unscheduled call shifts that are followed by shifts not subject to call, as a method for reducing employee fatigue.

''(2) WAIVER.—The Secretary may temporarily waive the requirements of this section, if necessary, to complete a pilot project under this subsection.

''(f) DUTY CALL DEFINED.—In this section the term 'duty call' means a telephone call that a railroad places to an employee to notify the employee of his or her assigned shift time.''.

(2) CONFORMING AMENDMENTS.—

(A) The chapter analysis for chapter 211 is amended by adding at the end thereof the following:

''21109. Regulatory authority''.

(B) The first sentence of section 21303(a)(1) is amended by inserting ''including section 21103 (as such section was in effect on the day before the date of enactment of the Railroad Safety Enhancement Act of 2008),'' after ''this title,'' the second place it appears.

(f) RECORD KEEPING AND REPORTING.—

(1) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary shall prescribe a regulation revising the requirements for recordkeeping and reporting for Hours of Service of Railroad Employees contained in part 228 of title 49, Code of Federal Regulations—

(A) to adjust record keeping and reporting requirements to support fully compliance with chapter 211 of title 49, United States Code, as amended by this Act;

(B) to authorize electronic record keeping, and reporting of excess service, consistent with appropriate considerations for user interface; and

(C) to require training of affected employees and supervisors, including training of employees in the entry of hours of service data.

(2) PROCEDURE.—In lieu of issuing a notice of proposed rulemaking as contemplated by section 553 of title 5, United States Code, the Secretary may utilize the Railroad Safety Advisory Committee to assist in development of the regulation. The Secretary may propose and adopt amendments to the revised regulations thereafter as may be necessary in light of experience under the revised requirements.

(g) 1-YEAR DELAY IN IMPLEMENTATION OF DUTY HOURS LIMITATION CHANGES.—The amendments made by subsections (a), (b), and (c) shall take effect 1 year after the date of enactment of this Act.

SEC. 107. PROTECTION OF RAILROAD SAFETY RISK ANALYSES INFORMATION.

(a) AMENDMENT.—Subchapter I of chapter 201 is amended by adding at the end thereof the following:

''§ 20118. Prohibition on public disclosure of railroad safety analysis records

''(a) IN GENERAL.—Except as necessary for the Secretary of Transportation or another Federal agency to enforce or carry out any provision of Federal law, any part of any record (including, but not limited to, a railroad carrier's analysis of its safety risks and its statement of the mitigation measures it has identified with which to address those risks) that the Secretary has obtained pursuant to a provision of, or regulation or order under, this chapter related to the establishment, implementation, or modification of a railroad safety risk reduction program or pilot program is exempt from the requirements of section 552 of title 5 if the record is—

''(1) supplied to the Secretary pursuant to that safety risk reduction program or pilot program; or

''(2) made available for inspection and copying by an officer, employee, or agent of the Secretary pursuant to that safety risk reduction program or pilot program.

''(b) EXCEPTION.—Notwithstanding subsection (a), the Secretary may disclose any part of any record comprised of facts otherwise available to the public if, in the Secretary's sole discretion, the Secretary determines that disclosure would be consistent with the confidentiality needed for that safety risk reduction program.

''(c) DISCRETIONARY PROHIBITION OF DISCLOSURE.—The Secretary may prohibit the public disclosure of risk analyses or risk mitigation analyses that the Secretary has obtained under other provisions of, or regulations or orders under, this chapter if the Secretary determines that the prohibition of public disclosure is necessary to promote railroad safety.

''§ 20119. Discovery and admission into evidence of certain reports and surveys

''Notwithstanding any other provision of law, no part of any report, survey, schedule, list, or data compiled or collected for the purpose of evaluating, planning, or implementing a railroad safety risk reduction program or other risk analysis or risk mitigation analysis designated by the Secretary of Transportation under section 20118(c) pursuant to a provision of, or regulation or order under, this chapter (including a railroad carrier's analysis of its safety risks and its statement of the mitigation measures with which it will address those risks) shall be subject to discovery or admitted into evidence in a Federal or State court proceeding, or considered for another purpose, in any action by a private party or parties for damages against the carrier, or its officers, employees, or contractors. The preceding sentence does not apply to any report, survey, list, or data otherwise available to the public.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201 is amended by inserting after the item relating to section 20117 the following:

''20118. Prohibition on public disclosure of railroad safety analysis records''.

''20119. Discovery and admission into evidence of certain reports and surveys''.

TITLE II—HIGHWAY-RAIL GRADE CROSSING AND PEDESTRIAN SAFETY AND TRESPASSER PREVENTION

SEC. 201. PEDESTRIAN CROSSING SAFETY.

Not later than 1 year after the date of enactment of this Act, the Secretary shall provide guidance to railroads on strategies and methods to prevent pedestrian accidents, injuries, and fatalities at or near passenger stations, including—

(1) providing audible warning of approaching trains to the pedestrians at railroad passenger stations;

(2) using signs, signals, or other visual devices to warn pedestrians of approaching trains;

(3) installing infrastructure at pedestrian crossings to improve the safety of pedestrians crossing railroad tracks;

(4) installing fences to prohibit access to railroad tracks; and

(5) other strategies or methods as determined by the Secretary.

SEC. 202. STATE ACTION PLANS.

(a) IN GENERAL.—Beginning not later than 6 months after the date of enactment of this Act, the Secretary shall identify on an annual basis the 10 States that receive Federal funds for highway-rail grade crossing safety projects that have had the most highway-rail grade crossing collisions in the preceding fiscal year. The Secretary may require as a condition of receiving such funds in the future (in addition to any requirements imposed under any other provision of law) that each of these States develop within a period of time determined by the Secretary a State Grade Crossing Action Plan that identifies specific solutions for improving safety at crossings, including highway-rail grade crossing closures or grade separations, particularly at crossings that have experienced multiple accidents, and shall provide assistance to the States in developing and carrying out, as appropriate, the plan. The plan may be coordinated with other State or Federal planning requirements.

(b) REVIEW AND APPROVAL.—Not later than 90 days after the Secretary receives a plan under subsection (a), the Secretary shall review and approve or disapprove it. If the proposed plan is not approved, the Secretary shall notify the affected State as to the specific points in which the proposed plan is deficient, and the State shall correct all deficiencies within 60 days following receipt of written notice from the Secretary.

SEC. 203. IMPROVEMENTS TO SIGHT DISTANCE AT HIGHWAY-RAIL GRADE CROSSINGS.

(a) IN GENERAL.—Subchapter II of chapter 201, as amended by section 105 of this Act, is further amended by inserting after section 20158 the following:

''§ 20159. Roadway user sight distance at highway-rail grade crossings

''(a) IN GENERAL.—Not later than 18 months after the date of enactment of the Railroad Safety Enhancement Act of 2008, the Secretary of Transportation shall prescribe regulations that require each railroad carrier to remove from its active rights-of-way at all public highway-rail grade crossings, and at all private highway-rail grade crossings open to unrestricted public access (as declared in writing by the holder of the crossing right), grass, brush, shrubbery, trees, and other vegetation which may materially obstruct the view of a pedestrian or a vehicle operator for a reasonable distance, as specified by the Secretary, in either direction of the train's approach, and to maintain its rights-of-way at all such crossings free of such vegetation. In prescribing the regulations, the Secretary shall take into consideration to the extent practicable—

''(1) the type of warning device or warning devices installed at such crossings;

''(2) factors affecting the timeliness and effectiveness of roadway user decisionmaking, including the maximum allowable roadway speed, maximum authorized train speed, angle of intersection, and topography;

''(3) the presence or absence of other sight distance obstructions off the railroad right-of-way; and

''(4) any other factors affecting safety at such crossings.

''(b) PROTECTED VEGETATION.—In promulgating regulations pursuant to this section, the Secretary may make allowance for preservation of trees and other ornamental or protective growth where State or local law or policy would otherwise protect the vegetation from removal and where the roadway authority or private crossing holder is notified of the sight distance obstruction and, within a reasonable period specified by the regulation, takes appropriate action to abate the hazard to roadway users (such as by closing the crossing, posting supplementary signage, installing active warning devices, lowering roadway speed, or installing traffic calming devices).

''(c) MODEL LEGISLATION.—Not later than 18 months after the date of enactment of the Railroad Safety Enhancement Act of 2008, the Secretary, after consultation with the Federal Railroad Administration, the Federal Highway Administration, and States, shall develop and make available to States model legislation providing for improving safety by addressing sight obstructions, at highway-rail grade crossings that are equipped solely with passive warnings, as recommended by the Inspector General of the Department of Transportation in Report No. MH–2007–044.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201, as amended by section 105 of this Act, is amended by inserting after the item relating to section 20158 the following new item:

''20159. Roadway user sight distance at highway-rail grade crossings''.

SEC. 204. NATIONAL CROSSING INVENTORY.

(a) IN GENERAL.—Subchapter II of chapter 201, as amended by section 203 of this Act, is further amended by adding at the end the following new section:

''§ 20160. National crossing inventory

''(a) INITIAL REPORTING OF INFORMATION ABOUT PREVIOUSLY UNREPORTED CROSSINGS.—Not later than 1 year after the date of enactment of the Railroad Safety Enhancement Act of 2008 or 6 months after a new crossing becomes operational, whichever occurs later, each railroad carrier shall—

''(1) report to the Secretary of Transportation current information, including information about warning devices and signage, as specified by the Secretary, concerning each previously unreported crossing through which it operates or with respect to the trackage over which it operates; or

''(2) ensure that the information has been reported to the Secretary by another railroad carrier that operates through the crossing.

''(b) UPDATING OF CROSSING INFORMATION.—

''(1) On a periodic basis beginning not later than 2 years after the date of enactment of the Railroad Safety Enhancement Act of 2008 and on or before September 30 of every year thereafter, or as otherwise specified by the Secretary, each railroad carrier shall—

''(A) report to the Secretary current information, including information about warning devices and signage, as specified by the Secretary, concerning each crossing through which it operates or with respect to the trackage over which it operates; or

''(B) ensure that the information has been reported to the Secretary by another railroad carrier that operates through the crossing.

''(2) A railroad carrier that sells a crossing or any part of a crossing on or after the date of enactment of the Railroad Safety Enhancement Act of 2008 shall, not later than the date that is 18 months after the date of enactment of that Act or 3 months after the sale, whichever occurs later, or as otherwise specified by the Secretary, report to the Secretary current information, as specified by the Secretary, concerning the change in ownership of the crossing or part of the crossing.

''(c) RULEMAKING AUTHORITY.—The Secretary shall prescribe the regulations necessary to implement this section. The Secretary may enforce each provision of the Department of Transportation's statement of the national highway-rail crossing inventory policy, procedures, and instruction for States and railroads that is in effect on the date of enactment of the Railroad Safety Enhancement Act of 2008, until such provision is superseded by a regulation issued under this section.

''(d) DEFINITIONS.—In this section:

''(1) CROSSING.—The term 'crossing' means a location within a State, other than a location where one or more railroad tracks cross one or more railroad tracks either at grade or grade-separated, where—

''(A) a public highway, road, or street, or a private roadway, including associated sidewalks and pathways, crosses one or more railroad tracks either at grade or grade-separated; or

''(B) a pathway explicitly authorized by a public authority or a railroad carrier that is dedicated for the use of nonvehicular traffic, including pedestrians, bicyclists, and others, that is not associated with a public highway, road, or street, or a private roadway, crosses one or more railroad tracks either at grade or grade-separated.

''(2) STATE.—The term 'State' means a State of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201, as amended by section 203 of this Act, is amended by inserting after the item relating to section 20159 the following:

''20160. National crossing inventory''.

(c) REPORTING AND UPDATING.—Section 130 of title 23, United States Code, is amended by adding at the end the following:

''(l) NATIONAL CROSSING INVENTORY.—

''(1) INITIAL REPORTING OF CROSSING INFORMATION.—Not later than 1 year after the date of enactment of the Railroad Safety Enhancement Act of 2008 or within 6 months of a new crossing becoming operational, whichever occurs later, each State shall report to the Secretary of Transportation current information, including information about warning devices and signage, as specified by the Secretary, concerning each previously unreported crossing located within its borders.

''(2) PERIODIC UPDATING OF CROSSING INFORMATION.—On a periodic basis beginning not later than 2 years after the date of enactment of the Railroad Safety Enhancement Act of 2008 and on or before September 30 of every year thereafter, or as otherwise specified by the Secretary, each State shall report to the Secretary current information, including information about warning devices and signage, as specified by the Secretary, concerning each crossing located within its borders.

''(3) RULEMAKING AUTHORITY.—The Secretary shall prescribe the regulations necessary to implement this subsection. The Secretary may enforce each provision of the Department of Transportation's statement of the national highway-rail crossing inventory policy, procedures, and instructions for States and railroads that is in effect on the date of enactment of the Railroad Safety Enhancement Act of 2008, until such provision is superseded by a regulation issued under this subsection.

''(4) DEFINITIONS.—In this subsection—

''(A) 'public crossing' means a location within a State, other than a location where one or more railroad tracks cross one or more railroad tracks either at grade or grade-separated, where—

''(i) a public highway, road, or street, including associated sidewalks and pathways, crosses one or more railroad tracks either at grade or grade-separated; or

''(ii) a publicly owned pathway explicitly authorized by a public authority or a railroad carrier and dedicated for the use of nonvehicular traffic, including pedestrians, bicyclists, and others, that is not associated with a public highway, road, or street, or a private roadway, crosses one or more railroad tracks either at grade or grade-separated; and

''(B) 'State' means a State of the United States, the District of Columbia, or Puerto Rico.''.

(d) CIVIL PENALTIES.—

(1) Section 21301(a)(1) is amended—

(A) by inserting ''with section 20160 or'' after ''comply'' in the first sentence; and

(B) by inserting ''section 20157 of this title or'' after ''violating'' in the second sentence.

(2) Section 21301(a)(2) is amended by inserting ''The Secretary shall impose a civil penalty for a violation of section 20160 of this title.'' after the first sentence.

SEC. 205. TELEPHONE NUMBER TO REPORT GRADE CROSSING PROBLEMS.

(a) IN GENERAL.—Section 20152 is amended to read as follows:

''§ 20152. Notification of grade crossing problems

''Not later than 18 months after the date of enactment of the Railroad Safety Enhancement Act of 2008, the Secretary of Transportation shall require each railroad carrier to—

''(1) establish and maintain a telephone service, which may be required to be a toll-free telephone for specific railroad carriers as determined by the Secretary to be appropriate, for rights-of-way over which it dispatches trains, to directly receive calls reporting—

''(A) malfunctions of signals, crossing gates, and other devices to promote safety at the grade crossing of railroad tracks on those rights-of-way and public or private roads;

''(B) disabled vehicles blocking railroad tracks at such grade crossings;

''(C) obstructions to the view of a pedestrian or a vehicle operator for a reasonable distance in either direction of a train's approach; or

''(D) other safety information involving such grade crossings;

''(2) upon receiving a report pursuant to paragraph (1)(A) or (B), immediately contact trains operating near the grade crossing to warn them of the malfunction or disabled vehicle;

''(3) upon receiving a report pursuant to paragraph (1)(A) or (B), and after contacting trains pursuant to paragraph (2), contact, as necessary, appropriate public safety officials having jurisdiction over the grade crossing to provide them with the information necessary for them to direct traffic, assist in the removal of the disabled vehicle, or carry out other activities as appropriate;

''(4) upon receiving a report pursuant to paragraph (1)(C) or (D), timely investigate the report, remove the obstruction if possible, or correct the unsafe circumstance; and

''(5) ensure the placement at each grade crossing on rights-of-way that it owns of appropriately located signs, on which shall appear, at a minimum—

''(A) a telephone number to be used for placing calls described in paragraph (1) to the railroad carrier dispatching trains on that right-of-way;

''(B) an explanation of the purpose of that telephone number; and

''(C) the grade crossing number assigned for that crossing by the National Highway-Rail Crossing Inventory established by the Department of Transportation.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201 is amended by striking the item relating to section 20152 and inserting the following:

''20152. Notification of grade crossing problems''.

SEC. 206. OPERATION LIFESAVER.

(a) GRANT.—The Federal Railroad Administration shall make a grant or grants to Operation Lifesaver to carry out a public information and education program to help prevent and reduce pedestrian, motor vehicle, and other incidents, injuries, and fatalities, and to improve awareness along railroad rights-of-way and at highway-rail grade crossings. This includes development, placement, and dissemination of Public Service Announcements in newspaper, radio, television, and other media. It will also include school presentations, brochures and materials, support for public awareness campaigns, and related support for the activities of Operation Lifesaver's member organizations. As part of an educational program funded by grants awarded under this section, Operation Lifesaver shall provide information to the public on how to identify and report to the appropriate authorities unsafe or malfunctioning highway-rail grade crossings.

(b) PILOT PROGRAM.—The Secretary may allow funds provided under subsection (a) also to be used by Operation Lifesaver to implement a pilot program, to be known as the Railroad Safety Public Awareness Program, that addresses the need for targeted and sustained community outreach on the subjects described in subsection (a). Such a pilot program shall be established in 1 or more States identified under section 202 of this Act. In carrying out such a pilot program Operation Lifesaver shall work with the State, community leaders, school districts, and public and private partners to identify the communities at greatest risk, to develop appropriate measures to reduce such risks, and shall coordinate the pilot program with the State grade crossing action plan.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Federal Railroad Administration for carrying out this section—

(1) $2,000,000 for each of fiscal years 2008, 2009, and 2010; and

(2) $1,500,000 for each of fiscal years 20011, 2012, and 2013.

SEC. 207. FEDERAL GRANTS TO STATES FOR HIGHWAY-RAIL GRADE CROSSING SAFETY.

(a) IN GENERAL.—Part B of subtitle V is amended by adding at the end thereof the following:

''CHAPTER 225. FEDERAL GRANTS TO STATES FOR HIGHWAY-RAIL GRADE CROSSING SAFETY

''Sec.

''22501. Financial assistance to States for certain projects

''22502. Distribution

''22503. Standards for awarding grants

''22504. Use of funds

''22505. Authorization of appropriations

''§ 22501. Financial assistance to States for certain projects

''The Secretary of Transportation shall make grants to a maximum of 3 States per year for development or continuance of enhanced public education and awareness activities, in combination with targeted law enforcement, to significantly reduce violations of traffic laws at highway-rail grade crossings and to help prevent and reduce injuries and fatalities along railroad rights-of-way.

''§ 22502. Distribution

''The Secretary shall provide the grants to the State agency or agencies responsible for highway-rail grade crossing safety.

''§ 22503. Standards for awarding grants

''The Secretary shall provide grants based upon the merits of the proposed program of activities provided by the State and upon a determination of where the grants will provide the greatest safety benefits.

''§ 22504. Use of funds

''Any State receiving a grant under this chapter shall use the funds to develop, implement, and continue to measure the effectiveness of a dedicated program of public education and enforcement of highway-rail crossing safety laws and to prevent casualties along railroad rights-of-way. The Secretary may not make a grant under this chapter available to assist a State or political subdivision thereof in establishing or continuing a quiet zone pursuant to part 222 of title 49, Code of Federal Regulations.

''§ 22505. Authorization of appropriations

''There are authorized to be appropriated to the Secretary $500,000 for each of fiscal years 2009 through 2013 to carry out the provisions of this chapter. Amounts appropriated pursuant to this section shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The subtitle analysis for subtitle V is amended by inserting after the item relating to chapter 223 the following:

225. Federal grant to States for highway-rail crossing safety .....22501''.

SEC. 208. TRESPASSER PREVENTION AND HIGHWAY-RAIL CROSSING SAFETY.

(a) TRESPASSER PREVENTION AND HIGHWAY-RAIL GRADE CROSSING WARNING SIGN VIOLATIONS.—Section 20151 is amended—

(1) by striking the section heading and inserting the following:

''§ 20151. Railroad trespassing, vandalism, and highway-rail grade crossing warning sign violation prevention strategy'' ;

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

''(a) EVALUATION OF EXISTING LAWS.—In consultation with affected parties, the Secretary of Transportation shall evaluate and review current local, State, and Federal laws regarding trespassing on railroad property, vandalism affecting railroad safety, and violations of highway-rail grade crossing warning signs and develop model prevention strategies and enforcement laws to be used for the consideration of State and local legislatures and governmental entities. The first such evaluation and review concerning violations of grade crossing signals shall be completed within 1 year after the date of enactment of the Railroad Safety Enhancement Act of 2008. The Secretary shall revise the model prevention strategies and enforcement codes periodically.'';

(3) by inserting ''FOR TRESPASSING AND VANDALISM PREVENTION'' in the subsection heading of subsection (b) after ''OUTREACH PROGRAM'';

(4) in subsection (c)—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(B) by inserting ''(1)'' after ''MODEL LEGISLATION.—''; and

(C) by adding at the end the following new paragraph:

''(2) Within 18 months after the date of enactment of the Railroad Safety Enhancement Act of 2008, the Secretary, after consultation with State and local governments and railroad carriers, shall develop and make available to State and local governments model State legislation providing for civil or criminal penalties, or both, for violations of highway-rail grade crossing warning signs.''; and

(5) by adding at the end the following new subsection:

''(d) DEFINITION.—In this section, the term 'violation of highway-rail grade crossing warning signs' includes any action by a motorist, unless directed by an authorized safety officer—

''(1) to drive around a grade crossing gate in a position intended to block passage over railroad tracks;

''(2) to drive through a flashing grade crossing signal;

''(3) to drive through a grade crossing with passive warning signs without ensuring that the grade crossing could be safely crossed before any train arrived; and

''(4) in the vicinity of a grade crossing, who creates a hazard of an accident involving injury or property damage at the grade crossing.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201 of title 49, United States Code, is amended by striking the item relating to section 20151 and inserting the following:

''20151. Railroad trespassing, vandalism, and highway-rail grade crossing warning sign violation prevention strategy''.

(c) EDUCATIONAL OR AWARENESS PROGRAM ITEMS FOR DISTRIBUTION.—Section 20134(a) is amended by adding at the end of the subsection the following: ''The Secretary may purchase items of nominal value and distribute them to the public without charge as part of an educational or awareness program to accomplish the purposes of this section and of any other sections of this title related to improving the safety of highway-rail crossings and to preventing trespass on railroad rights of way, and the Secretary shall prescribe guidelines for the administration of this authority.''.

SEC. 209. FOSTERING INTRODUCTION OF NEW TECHNOLOGY TO IMPROVE SAFETY AT HIGHWAY-RAIL GRADE CROSSINGS.

(a) AMENDMENT.—Subchapter II of chapter 201, as amended by section 204 of this Act, is further amended by adding at the end the following:

''§ 20161. Fostering introduction of new technology to improve safety at highway-rail grade crossings

''(a) POLICY.—It is the policy of the Department of Transportation to encourage the development of new technology that can prevent loss of life and injuries at highway-rail grade crossings. The Secretary of Transportation shall carry out this policy in consultation with States and necessary public and private entities.

''(b) SUBMISSION OF NEW TECHNOLOGY PROPOSALS.—Railroad carriers and railroad suppliers may submit for review and approval to the Secretary such new technology designed to improve safety at highway-rail grade crossings. The Secretary shall approve the new technology designed to improve safety at highway-rail grade crossings in accordance with Federal Railroad Administration standards for the development and use of processor-based signal and train control systems and shall consider the effects on safety of highway-user interface with the new technology.

''(c) EFFECT OF SECRETARIAL APPROVAL.—If the Secretary approves new technology to provide warning to highway users at a highway-rail grade crossing and such technology is installed at a highway-rail grade crossing in accordance with the conditions of the approval, this determination preempts any State law concerning the adequacy of the technology in providing warning at the crossing. Under no circumstances may a person (including a State, other public authority, railroad carrier, system designer, or supplier of the technology) be held liable for damages for any harm to persons or property because of an accident or incident at the crossing protected by such technology based upon the carrier's failure to properly inspect and maintain such technology, if the carrier has inspected and maintained the technology in accordance with the terms of the Secretary's approval.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201, as amended by section 204 of this Act, is further amended by inserting after the item relating to section 20160, the following:

''20161. Fostering introduction of new technology to improve safety at highway-rail grade crossings''.

TITLE III—FEDERAL RAILROAD ADMINISTRATION

SEC. 301. HUMAN CAPITAL INCREASES.

(a) IN GENERAL.—The Secretary shall increase the number of Federal Railroad Administration employees by 25 employees in each of fiscal years 2008 through 2013.

(b) FUNCTIONS.—In increasing the number of employees pursuant to subsection (a), the Secretary shall focus on hiring employees—

(1) specifically trained to conduct on-site railroad and highway-rail grade crossing accident investigations;

(2) to implement the Railroad Safety Strategy;

(3) to administer and implement the Railroad Safety Risk Reduction Pilot Program and the Railroad Safety Risk Reduction Program;

(4) to implement section 20166 of title 49, United States Code, and to focus on encouragement and oversight of the use of new or novel rail safety technology;

(5) to conduct routine inspections and audits of railroad and hazardous materials facilities and records for compliance with railroad safety laws and regulations;

(6) to inspect railroad bridges, tunnels, and related infrastructure, and to review or analyze railroad bridge, tunnel, and related infrastructure inspection reports;

(7) to prevent or respond to natural or manmade emergency situations or events involving rail infrastructure or employees; and

(8) to support the Federal Railroad Administration's safety mission.

SEC. 302. CIVIL PENALTY INCREASES.

(a) GENERAL VIOLATIONS OF CHAPTER 201.—Section 21301(a)(2) is amended—

(1) by striking ''$10,000.'' and inserting ''$25,000.''; and

(2) by striking ''$20,000.'' and inserting ''$100,000.''.

(b) ACCIDENT AND INCIDENT VIOLATIONS OF CHAPTER 201; VIOLATIONS OF CHAPTERS 203 THROUGH 209.—Section 21302(a)(2) is amended—

(1) by striking ''$10,000.'' and inserting ''$25,000.''; and

(2) by striking ''$20,000.'' and inserting ''$100,000.''.

(c) VIOLATIONS OF CHAPTER 211.—Section 21303(a)(2) is amended—

(1) by striking ''$10,000.'' and inserting ''$25,000.''; and

(2) by striking ''$20,000.'' and inserting ''$100,000.''.

SEC. 303. ENFORCEMENT REPORT.

(a) IN GENERAL.—Subchapter I of chapter 201, as amended by section 107 of this Act, is amended by adding at the end the following:

''§ 20120. Enforcement Report.

''(a) IN GENERAL.—Not later than December 31, 2008, the Secretary of Transportation shall make available to the public and publish on its public website an annual report that—

''(1) provides a summary of railroad safety and hazardous materials compliance inspections and audits that Federal or State inspectors conducted in the prior fiscal year organized by type of alleged violation, including track, motive power and equipment, signal, grade crossing, operating practices, accident and incidence reporting, and hazardous materials;

''(2) provides a summary of all enforcement actions taken by the Secretary or the Federal Railroad Administration during the prior fiscal year, including—

''(A) the number of civil penalties assessed against railroad carriers, hazardous material shippers, and individuals;

''(B) the initial amount of civil penalties assessed against railroad carriers, hazardous materials shippers, and individuals;

''(C) the number of civil penalty cases settled against railroad carriers, hazardous material shippers, and individuals;

''(D) the final amount of civil penalties assessed against railroad carriers, hazardous materials shippers, and individuals;

''(E) the difference between the initial and final amounts of civil penalties assessed against railroad carriers, hazardous materials shippers, and individuals;

''(F) the number of administrative hearings requested and completed related to hazardous materials transportation law violations or enforcement actions against individuals;

''(G) the number of cases referred to the Attorney General for civil or criminal prosecution;

''(H) the number and subject matter of all compliance orders, emergency orders or precursor agreements;

''(3) analyzes the effect of the number of inspections conducted and enforcement actions taken on the number and rate of reported accidents and incidents and railroad safety;

''(4) identifies the number of locomotive engineer certification denial or revocation cases appealed to and the average length of time it took to be decided by—

''(A) the Locomotive Engineer Review Board;

''(B) an Administrative Hearing Officer or Administrative Law Judge; or

''(C) the Administrator of the Federal Railroad Administration;

''(5) provides any explanation regarding changes in the Secretary's or the Federal Railroad Administration's enforcement programs or policies that may substantially affect the information reported; and

''(6) includes any additional information that the Secretary determines is useful to improve the transparency of its enforcement program.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201, as amended by section 107 of this Act, is amended by inserting after the item relating to section 20119 the following:

''20120. Enforcement report''.

SEC. 304. PROHIBITION OF INDIVIDUALS FROM PERFORMING SAFETY-SENSITIVE FUNCTIONS FOR A VIOLATION OF HAZARDOUS MATERIALS TRANSPORTATION LAW.

Section 20111(c) is amended to read as follows:

''(c) ORDERS PROHIBITING INDIVIDUALS FROM PERFORMING SAFETY-SENSITIVE FUNCTIONS.—

''(1) If an individual's violation of this part, chapter 51 of this title, or a regulation prescribed, or an order issued, by the Secretary under this part or chapter 51 of this title is shown to make that individual unfit for the performance of safety-sensitive functions, the Secretary, after providing notice and an opportunity for a hearing, may issue an order prohibiting the individual from performing safety-sensitive functions in the railroad industry for a specified period of time or until specified conditions are met.

''(2) This subsection does not affect the Secretary's authority under section 20104 of this title to act on an emergency basis.''.

SEC. 305. RAILROAD RADIO MONITORING AUTHORITY.

Section 20107 is amended by inserting at the end the following:

''(c) RAILROAD RADIO COMMUNICATIONS.—

''(1) IN GENERAL.—To carry out the Secretary's responsibilities under this part and under chapter 51, the Secretary may authorize officers, employees, or agents of the Secretary to conduct, with or without making their presence known, the following activities in circumstances the Secretary finds to be reasonable:

''(A) Intercepting a radio communication, with or without the consent of the sender or other receivers of the communication, but only where such communication is broadcast or transmitted over a radio frequency which is—

''(i) authorized for use by one or more railroad carriers by the Federal Communications Commission; and

''(ii) primarily used by such railroad carriers for communications in connection with railroad operations.

''(B) Communicating the existence, contents, substance, purport, effect, or meaning of the communication, subject to the restrictions in paragraph (3).

''(C) Receiving or assisting in receiving the communication (or any information therein contained).

''(D) Disclosing the contents, substance, purport, effect, or meaning of the communication (or any part thereof of such communication) or using the communication (or any information contained therein), subject to the restrictions in paragraph (3), after having received the communication or acquired knowledge of the contents, substance, purport, effect, or meaning of the communication (or any part thereof).

''(E) Recording the communication by any means, including writing and tape recording.

''(2) ACCIDENT PREVENTION AND ACCIDENT INVESTIGATION.—The Secretary, and officers, employees, and agents of the Department of Transportation authorized by the Secretary, may engage in the activities authorized by paragraph (1) for the purpose of accident prevention and accident investigation.

''(3) USE OF INFORMATION.—(A) Information obtained through activities authorized by paragraphs (1) and (2) shall not be admitted into evidence in any administrative or judicial proceeding except—

''(i) in a prosecution of a felony under Federal or State criminal law; or

''(ii) to impeach evidence offered by a party other than the Federal Government regarding the existence, electronic characteristics, content, substance, purport, effect, meaning, or timing of, or identity of parties to, a communication intercepted pursuant to paragraphs (1) and (2) in proceedings pursuant to section 5122, 5123, 20702(b), 20111, 20112, 20113, or 20114 of this title.

''(B) If information obtained through activities set forth in paragraphs (1) and (2) is admitted into evidence for impeachment purposes in accordance with subparagraph (A), the court, administrative law judge, or other officer before whom the proceeding is conducted may make such protective orders regarding the confidentiality or use of the information as may be appropriate in the circumstances to protect privacy and administer justice.

''(C) No evidence shall be excluded in an administrative or judicial proceeding solely because the government would not have learned of the existence of or obtained such evidence but for the interception of information that is not admissible in such proceeding under subparagraph (A).

''(D) Information obtained through activities set forth in paragraphs (1) and (2) shall not be subject to publication or disclosure, or search or review in connection therewith, under section 552 of title 5.

''(E) Nothing in this subsection shall be construed to impair or otherwise affect the authority of the United States to intercept a communication, and collect, retain, analyze, use, and disseminate the information obtained thereby, under a provision of law other than this subsection.

''(4) APPLICATION WITH OTHER LAW.—Section 705 of the Communications Act of 1934 (47 U.S.C. 605) and chapter 119 of title 18 shall not apply to conduct authorized by and pursuant to this subsection.''.

SEC. 306. EMERGENCY WAIVERS.

Section 20103 is amended—

(1) by striking subsection (e) and inserting the following:

''(e) HEARINGS.—Except as provided in subsection (g) of this section, the Secretary shall conduct a hearing as provided by section 553 of title 5 when prescribing a regulation or issuing an order under this chapter, including a regulation or order establishing, amending, or waiving compliance with a railroad safety regulation prescribed or order issued under this chapter. An opportunity for an oral presentation shall be provided.''; and

(2) by adding at the end thereof the following:

''(g) EMERGENCY WAIVERS.—

''(1) IN GENERAL.—The Secretary shall prescribe procedures concerning the handling of requests for waivers of regulations prescribed or orders issued under this chapter in emergency situations and may prescribe temporary emergency waiver procedures without first providing an opportunity for public comment. The Secretary may grant a waiver request if the waiver is directly related to the emergency event or necessary to aid in any recovery efforts and is in the public interest and consistent with railroad safety. The relief shall not extend for a period of more than 9 months, including the period of the relief granted under any renewal of the waiver pursuant to the emergency waiver procedures. For matters that may impact the missions of the Department of Homeland Security, the Secretary of Transportation shall consult and coordinate with the Secretary of Homeland Security as soon as practicable.

''(2) WAIVER BEFORE HEARING.—If, under the emergency waiver procedures established under paragraph (1) of this subsection, the Secretary determines the public interest would be better served by addressing a request for waiver prior to providing an opportunity for a hearing under section 553 of title 5 and an oral presentation, the Secretary

may act on the waiver request and, if the request is granted, the Secretary shall subsequently provide notice and an opportunity for a hearing and oral presentation pursuant to procedures prescribed under paragraph (1) of this subsection. Should the Secretary receive comment or a request for oral presentation on a waiver request after granting the waiver, the Secretary may take any necessary action with regard to that waiver (including rescission or modification) based on the newly acquired information.

''(3) EMERGENCY SITUATION; EMERGENCY EVENT.—In this subsection, the terms 'emergency situation' and 'emergency event' mean a natural or manmade disaster, such as a hurricane, flood, earthquake, mudslide, forest fire, snowstorm, terrorist act, biological outbreak, release of a dangerous radiological, chemical, explosive, or biological material, or a war-related activity, that poses a risk of death, serious illness, severe injury, or substantial property damage. The disaster may be local, regional, or national in scope.''.

SEC. 307. FEDERAL RAIL SECURITY OFFICERS' ACCESS TO INFORMATION.

(a) AMENDMENT.—Chapter 281 is amended by adding at the end thereof the following:

''§ 28104. Federal rail security officers' access to information

''(a) ACCESS TO RECORDS OR DATABASE SYSTEMS BY THE ADMINISTRATOR OF THE FEDERAL RAILROAD ADMINISTRATION.—

''(1) IN GENERAL.—The Administrator of the Federal Railroad Administration is authorized to have access to a system of documented criminal justice information maintained by the Department of Justice or by a State for the purpose of carrying out the civil and administrative responsibilities of the Administrator to protect the safety, including security, of railroad operations and for other purposes authorized by law, including the National Crime Prevention and Privacy Compact (42 U.S.C. 14611-14616). The Administrator shall be subject to the same conditions or procedures established by the Department of Justice or State for access to such an information system by other governmental agencies with access to the system.

''(2) LIMITATION.—The Administrator may not use the access authorized under paragraph (1) to conduct criminal investigations.

''(b) DESIGNATED EMPLOYEES OF THE FEDERAL RAILROAD ADMINISTRATION.—The Administrator shall, by order, designate each employee of the Administration whose primary responsibility is rail security who shall carry out the authority described in subsection (a). The Administrator shall strictly limit access to a system of documented criminal justice information to persons with security responsibilities and with appropriate security clearances. Such a designated employee may, insofar as authorized or permitted by the National Crime Prevention and Privacy Compact or other law or agreement governing an affected State with respect to such a State—

''(1) have access to and receive criminal history, driver, vehicle, and other law enforcement information contained in the law enforcement databases of the Department of Justice, or of any jurisdiction in a State in the same manner as a police officer employed by a State or local authority of that State who is certified or commissioned under the laws of that State;

''(2) use any radio, data link, or warning system of the Federal Government and of any jurisdiction in a State that provides information about wanted persons, be-on-the-lookout notices, or warrant status or other officer safety information to which a police officer employed by a State or local authority in that State who is certified or commissioned under the laws of that State has access and in the same manner as such police officer; or

''(3) receive Federal, State, or local government communications with a police officer employed by a State or local authority in that State in the same manner as a police officer employed by a State or local authority in that State who is commissioned under the laws of that State.

''(c) SYSTEM OF DOCUMENTED CRIMINAL JUSTICE INFORMATION DEFINED.—In this section, the term 'system of documented criminal justice information' means any law enforcement database, systems, or communications containing information concerning identification, criminal history, arrests, convictions, arrest warrants, or wanted or missing persons, including the National Crime Information Center and its incorporated criminal history databases and the National Law Enforcement Telecommunications System.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 281 is amended by adding at the end the following:

''28104. Federal rail officers' access to information''.

SEC. 308. UPDATE OF FEDERAL RAILROAD ADMINISTRATION'S WEBSITE.

(a) IN GENERAL.—The Secretary shall update the Federal Railroad Administration's public website to better facilitate the ability of the public, including those individuals who are not regular users of the public website, to find current information regarding the Federal Railroad Administration's activities.

(b) PUBLIC REPORTING OF VIOLATIONS.—On the Federal Railroad Administration's public website's home page, the Secretary shall provide a mechanism for the public to submit written reports of potential violations of Federal railroad safety and hazardous materials transportation laws, regulations and orders to the Federal Railroad Administration.

TITLE IV—RAILROAD SAFETY ENHANCEMENTS

SEC. 401. EMPLOYEE TRAINING.

(a) IN GENERAL.—Subchapter II of chapter 201, as amended by section 208 of this Act, is further amended by adding at the end the following:

''§ 20162. Employee training

''(a) IN GENERAL.—Not later than 1 year after the date of enactment of the Railroad Safety Enhancement Act of 2008, the Secretary of Transportation shall prescribe regulations requiring railroad carriers and railroad carrier contractors and subcontractors to develop training plans for crafts and classes of employees, as the Secretary determines appropriate.

''(b) CONTENTS.—The Secretary shall require that each training plan—

''(1) clearly identify the class of craft of employees to which the plan applies;

''(2) require that employees be trained on the requirements of relevant Federal railroad safety laws, regulations, and orders;

''(3) require employees to be tested or otherwise demonstrate their proficiency in the subject matter of the training; and

''(4) contain any other relevant information that the Secretary deems appropriate.

''(c) SUBMISSION FOR APPROVAL.—The Secretary shall require each railroad carrier, railroad carrier contractor, and railroad carrier subcontractor to submit its training plan to the Federal Railroad Administration for review and approval.

''(d) EXEMPTION.—The Secretary may exempt railroad carriers and railroad carrier contractors and subcontractors from submitting training plans covering employees for which the Secretary has issued training regulations before the date of enactment of the Railroad Safety Enhancement Act of 2008.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201, as amended by section 208 of this Act, is further amended by adding at the end thereof the following:

''20162. Employee training''.

SEC. 402. CERTIFICATION OF CERTAIN CRAFTS OR CLASSES OF EMPLOYEES.

(a) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure about whether the certification of certain crafts or classes of railroad carrier or railroad carrier contractor or subcontractor employees is necessary to reduce the number and rate of accidents and incidents or to improve railroad safety.

(b) CRAFTS AND CLASSES TO BE CONSIDERED.—As part of the report, the Secretary shall consider—

(1) conductors;

(2) car repair and maintenance employees;

(3) onboard service workers;

(4) rail welders;

(5) dispatchers;

(6) signal repair and maintenance employees; and

(7) any other craft or class of employees that the Secretary determines appropriate.

(c) REGULATIONS.—The Secretary may prescribe regulations requiring the certification of certain crafts or classes of employees that the Secretary determines pursuant to the report required by subsection (a) are necessary to reduce the number and rate of accidents and incidents or to improve railroad safety.

SEC. 403. TRACK INSPECTION TIME STUDY.

(a) STUDY.—Not later that 2 years after the date of enactment of this Act, the Secretary shall—

(1) complete a study to determine whether—

(A) the required intervals of track inspections for each class of track should be amended;

(B) track remedial action requirements should be amended;

(C) different track inspection and repair priorities or methods should be required; and

(2) issue recommendations for changes to the Federal track safety standards in part 213 of title 49, Code of Federal Regulations, based on the results of the study.

(b) CONSIDERATIONS.—In conducting the study the Secretary shall consider—

(1) the most current rail flaw, rail defect growth, rail fatigue, and other relevant track- or rail-related research and studies;

(2) the availability and feasibility of developing and implementing new or novel rail inspection technology for routine track inspections;

(3) information from National Transportation Safety Board or Federal Railroad Administration accident investigations where track defects were the cause or a contributing cause; and

(4) other relevant information, as determined by the Secretary.

(c) UPDATE OF REGULATIONS.—Not later than 2 years after the completion of the study required by subsection (b), the Secretary shall prescribe regulations implementing the recommendations of the study.

SEC. 404. STUDY OF METHODS TO IMPROVE OR CORRECT STATION PLATFORM GAPS.

Not later than 2 years after the enactment of this Act, the Secretary shall complete a study to determine the most safe, efficient, and cost-effective way to improve the safety of rail passenger station platforms gaps in order to increase compliance with the requirements under the Americans with Disabilities Act (42 U.S.C. 12101 et seq.), including regulations issued pursuant to section

504 of such Act (42 U.S.C. 12204) and to minimize the safety risks associated with such gaps for railroad passengers and employees.

SEC. 405. LOCOMOTIVE CAB STUDIES.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary, through the Railroad Safety Advisory Committee if the Secretary makes such a request, shall complete a study on the safety impact of the use of personal electronic devices, including cell phones, video games, and other distracting devices, by safety-related railroad employees (as defined in section 20102(4) of title 49, United States Code), during the performance of such employees' duties. The study shall consider the prevalence of the use of such devices.

(b) LOCOMOTIVE CAB ENVIRONMENT.—The Secretary may also study other elements of the locomotive cab environment and their effect on an employee's health and safety.

(c) REPORT.—Not later than 6 months after the completion of any study under this section, the Secretary shall issue a report on the study to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

(d) AUTHORITY.—Based on the conclusions of the study required under (a), the Secretary of Transportation may prohibit the use of personal electronic devices, such as cell phones, video games, or other electronic devices that may distract employees from safely performing their duties, unless those devices are being used according to railroad operating rules or for other work purposes. Based on the conclusions of other studies conducted under subsection (b), the Secretary may prescribe regulations to improve elements of the cab environment to protect an employee's health and safety.

SEC. 406. RAILROAD SAFETY TECHNOLOGY GRANTS.

(a) IN GENERAL.—Subchapter II of chapter 201, as amended by section 401 of this Act, is further amended by adding at the end thereof the following:

"§ 20163. Railroad safety technology grants

''(a) GRANT PROGRAM.—The Secretary of Transportation shall establish a grant program for the deployment of train control technologies, train control component technologies, processor-based technologies, electronically controlled pneumatic brakes, rail integrity inspection systems, rail integrity warning systems, switch position indicators, remote control power switch technologies, track integrity circuit technologies, and other new or novel railroad safety technology.

''(b) GRANT CRITERIA.—

''(1) ELIGIBILITY.—Grants shall be made under this section to eligible passenger and freight railroad carriers, railroad suppliers, and State and local governments for projects described in subsection (a) that have a public benefit of improved safety and network efficiency.

''(2) CONSIDERATIONS.—Priority shall be given to projects that—

''(A) focus on making technologies interoperable between railroad systems, such as train control technologies;

''(B) provide incentives for train control technology deployment on high-risk corridors, such as those that have high volumes of hazardous materials shipments or over which commuter or passenger trains operate; or

''(C) benefit both passenger and freight safety and efficiency.

''(3) TECHNOLOGY IMPLEMENTATION PLAN.—Grants may not be awarded under this section to entities that fail to develop and submit to the Secretary a technology implementation plan as required by section 20157(d)(2).

''(4) MATCHING REQUIREMENTS.—Federal funds for any eligible project under this section shall not exceed 50 percent of the total cost of such project.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation $10,000,000 for each of fiscal years 2008 through 2013 to carry out this section. Amounts appropriated pursuant to this section shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201, as amended by section 401 of this Act, is further amended by inserting after the item relating to section 20163 the following:

''20163. Railroad safety technology grants''.

SEC. 407. RAILROAD SAFETY INFRASTRUCTURE IMPROVEMENT GRANTS.

(a) IN GENERAL.—Subchapter II of chapter 201, as amended by section 406 of this Act, is further amended by adding at the end thereof the following:

"§ 20164. Railroad safety infrastructure improvement grants

''(a) GRANT PROGRAM.—The Secretary of Transportation shall establish a grant program for safety improvements to railroad infrastructure, including the acquisition, improvement, or rehabilitation of intermodal or rail equipment or facilities, including track, bridges, tunnels, yards, buildings, passenger stations, facilities, and maintenance and repair shops.

''(b) ELIGIBILITY.—Grants shall be made under this section to eligible passenger and freight railroad carriers, and State and local governments for projects described in subsection (a).

''(c) CONSIDERATIONS.—In awarding grants the Secretary shall consider, at a minimum—

''(1) the age and condition of the rail infrastructure of the applicant;

''(2) the railroad's safety record, including accident and incident numbers and rates;

''(3) the volume of hazardous materials transported by the railroad;

''(4) the operation of passenger trains over the railroad; and

''(5) whether the railroad has submitted a railroad safety risk reduction program, as required by section 20157.

''(d) MATCHING REQUIREMENTS.—Federal funds for any eligible project under this section shall not exceed 50 percent of the total cost of such project.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation $7,500,000 for each of fiscal years 2008 through 2013 to carry out this section. Amounts appropriated pursuant to this subsection shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201, as amended by section 406 of this Act, is amended by inserting after the item relating to section 20163 the following:

''20164. Railroad safety infrastructure improvement grants''.

SEC. 408. AMENDMENT TO THE MOVEMENT-FOR-REPAIR PROVISION.

Section 20303 is amended by adding at the end the following:

''(d) ADDITIONAL CONDITIONS FOR MOVEMENT TO MAKE REPAIRS TO DEFECTIVE OR INSECURE VEHICLES.—

''(1) IN GENERAL.—The Secretary of Transportation may impose conditions for the movement of a defective or insecure vehicle to make repairs in addition to those conditions set forth in subsection (a) by prescribing regulations or issuing orders as necessary.

''(2) NECESSITY OF MOVEMENT.—The movement of a defective or insecure vehicle from a location may be necessary to make repairs of the vehicle even though a mobile repair truck capable of making the repairs has gone to the location on an irregular basis (as specified in regulations prescribed by the Secretary).

''(e) DEFINITIONS.—In this section:

''(1) NEAREST.—The term 'nearest' means the closest in the forward direction of travel for the defective or insecure vehicle.

''(2) PLACE AT WHICH THE REPAIRS CAN BE MADE.—The term 'place at which the repairs can be made' means—

''(A) a location with a fixed facility for conducting the repairs that are necessary to bring the defective or insecure vehicle into compliance with this chapter; or

''(B) a location where a mobile repair truck capable of making the repairs that are necessary to bring the defective or insecure vehicle into compliance with this chapter makes the same kind of repair at the location regularly (as specified in regulations prescribed by the Secretary).''.

SEC. 409. DEVELOPMENT AND USE OF RAIL SAFETY TECHNOLOGY.

(a) IN GENERAL.—Subchapter II of chapter 201, as amended by section 407 of this Act, is further amended by adding at the end the following new section:

"§ 20165. Development and use of rail safety technology

''(a) IN GENERAL.—Not later than 1 year after enactment of the Railroad Safety Enhancement Act of 2008, the Secretary of Transportation shall prescribe standards, guidance, regulations, or orders governing the development, use, and implementation of rail safety technology in dark territory, in arrangements not defined in section 20501 or otherwise not covered by Federal standards, guidance, regulations, or orders that ensures its safe operation, such as—

''(1) switch position monitoring devices;

''(2) radio, remote control or other power-assisted switches;

''(3) hot box, high water or earthquake detectors;

''(4) remote control locomotive zone limiting devices;

''(5) slide fences;

''(6) grade crossing video monitors;

''(7) track integrity warning systems;

''(8) or other similar rail safety technologies, as determined by the Secretary.

''(b) DARK TERRITORY DEFINED.—In this section, the term 'dark territory' means any territory in a railroad system that does not have a signal or train control system installed or operational.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201, as amended by section 407 of this Act, is amended by inserting after the item relating to section 20164 the following:

''20165. Development and use of rail safety technology''.

SEC. 410. EMPLOYEE SLEEPING QUARTERS.

Section 21106 is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''A railroad carrier'';

(2) by striking ''sanitary and give those employees and individuals an opportunity for rest free from the interruptions caused by noise under the control of the carrier;'' in paragraph (1) and inserting ''sanitary, give those employees and individuals an opportunity for rest free from the interruptions caused by noise under the control of the carrier, and provide indoor toilet facilities, potable water, and other features to protect the health of employees;'' and

(3) by adding at the end the following:

''(b) CAMP CARS.—No later than 12 months after the date of enactment of the Railroad Safety Enhancement Act of 2008, the Secretary, in consultation with the Secretary of

Labor, shall prescribe regulations governing the use of camp cars, pursuant to subsection (a)(1), for employees and any individuals employed to maintain the right of way of a railroad carrier. The regulations may also prohibit the use of camp cars, if necessary, to protect the health and safety of the employees.''.

SEC. 411. EMPLOYEE PROTECTIONS.

Section 20109(a) is amended—

(1) by redesignating paragraphs (5) through (7) as paragraphs (6) through (8), respectively; and

(2) by inserting after paragraph (4) the following:

''(5) to request that a railroad carrier provide first aid, prompt medical treatment, or transportation to an appropriate medical facility or hospital after being injured during the course of employment, or to comply with treatment prescribed by a physician or licensed health care professional, except that a railroad carrier's refusal to permit an employee to return to work upon that employee's release by his or her physician or licensed health care professional shall not be considered discrimination if the refusal is in compliance with the carrier's medical standards for fitness for duty;''.

SEC. 412. UNIFIED TREATMENT OF FAMILIES OF RAILROAD CARRIERS.

Section 20102(3), as redesignated by section 2(b) of this Act, is amended to read as follows:

''(3) 'railroad carrier' means a person providing railroad transportation, except that, upon petition by a group of commonly controlled railroad carriers that the Secretary determines is operating within the United States as a single, integrated rail system, the Secretary may by order treat the group of railroad carriers as a single railroad carrier for purposes of one or more provisions of part A, subtitle V of this title and implementing regulations and order, subject to any appropriate conditions that the Secretary may impose.''.

SEC. 413. STUDY OF REPEAL OF CONRAIL PROVISION.

Within 1 year after the date of enactment of this Act, the Secretary shall complete a study of the impacts of repealing section 711 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797j). Within 6 months after completing the study, the Secretary shall transmit a report with the Secretary's findings, conclusions, and recommendations to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

SEC. 414. LIMITATIONS ON NON-FEDERAL ALCOHOL AND DRUG TESTING BY RAILROAD CARRIERS.

(a) IN GENERAL.—Chapter 201, as amended by section 409, is further amended by adding at the end the following:

''§ 20166. Limitations on non-Federal alcohol and drug testing

''(a) TESTING REQUIREMENTS.—Any non-Federal alcohol and drug testing program of a railroad carrier must provide that all post-employment tests of the specimens of employees who are subject to both the program and chapter 211 of this title be conducted using a scientifically recognized method of testing capable of determining the presence of the specific analyte at a level above the cut-off level established by the carrier.

''(b) REDRESS PROCESS.—Each railroad carrier that has a non-Federal alcohol and drug testing program must provide a redress process to its employees who are subject to both the alcohol and drug testing program and chapter 211 of this title for such an employee to petition for and receive a carrier hearing to review his or her specimen test results that were determined to be in violation of the program. A dispute or grievance raised by a railroad carrier or its employee, except a probationary employee, in connection with the carrier's alcohol and drug testing program and the application of this section is subject to resolution under section 3 of the Railway Labor Act (45 U.S.C. 153).''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201, as amended by section 409 of this Act, is further amended by inserting after the item relating to section 20165 the following:

''20166. Limitations on non-Federal alcohol and drug testing by railroad carriers''.

SEC. 415. CRITICAL INCIDENT STRESS PLAN.

(a) IN GENERAL.—The Secretary of Transportation, in consultation with the Secretary of Labor and the Secretary of Health and Human Services, as appropriate, shall require each Class I railroad carrier, each intercity passenger railroad carrier, and each commuter railroad carrier to develop and submit for approval to the Secretary a critical incident stress plan that provides for debriefing, counseling, guidance, and other appropriate support services to be offered to an employee affected by a critical incident.

(b) PLAN REQUIREMENTS.—Each such plan shall include provisions for—

(1) relieving an employee who was involved in a critical incident of his or her duties for the balance of the duty tour, following any actions necessary for the safety of persons and contemporaneous documentation of the incident;

(2) upon the employee's request, relieving an employee who witnessed a critical incident of his or her duties following any actions necessary for the safety of persons and contemporaneous documentation of the incident; and

(3) providing such leave from normal duties as may be necessary and reasonable to receive preventive services, treatment, or both, related to the incident.

(c) SECRETARY TO DEFINE WHAT CONSTITUTES A CRITICAL INCIDENT.—Within 30 days after the date of enactment of this Act, the Secretary shall initiate a rulemaking proceeding to define the term ''critical incident'' for the purposes of this section.

SEC. 416. RAILROAD CARRIER EMPLOYEE EXPOSURE TO RADIATION STUDY.

(a) STUDY.—The Secretary of Transportation shall, in consultation with the Secretary of Energy, the Secretary of Labor, the Administrator of the Environmental Protection Agency, and the Chairman of the Nuclear Regulatory Commission, as appropriate, conduct a study of the potential hazards to which employees of railroad carriers and railroad contractors or subcontractors are exposed during the transportation of high-level radioactive waste and spent nuclear fuel (as defined in section 5101(a) of title 49, United States Code), supplementing the report submitted under section 5101(b) of that title, which may include—

(1) an analysis of the potential application of ''as low as reasonably achievable'' principles for exposure to radiation to such employees with an emphasis on the need for special protection from radiation exposure for such employees during the first trimester of pregnancy or who are undergoing or have recently undergone radiation therapy;

(2) the feasibility of requiring real-time dosimetry monitoring for such employees;

(3) the feasibility of requiring routine radiation exposure monitoring in fixed railroad locations, such as yards and repair facilities; and

(4) a review of the effectiveness of the Department of Transportation packaging requirements for radioactive materials.

(b) REPORT.—No later than 18 months after the date of enactment of this Act, the Secretary of Transportation shall transmit a report on the results of the study required by subsection (a) and any recommendations to further protect employees of a railroad carrier or of a contractor or subcontractor to a railroad carrier from unsafe exposure to radiation during the transportation of high-level radioactive waste and spent nuclear fuel to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

(c) REGULATORY AUTHORITY.—The Secretary of Transportation may issue regulations that the Secretary determines appropriate, pursuant to the report required by subsection (b), to protect railroad employees from unsafe exposure to radiation during the transportation of radioactive materials.

SEC. 417. ALCOHOL AND CONTROLLED SUBSTANCE TESTING FOR MAINTENANCE-OF-WAY EMPLOYEES.

Not later than 2 years following the date of enactment of this Act, the Secretary of Transportation shall complete a rulemaking proceeding to revise the regulations prescribed under section 20140 of title 49, United States Code, to cover all employees of railroad carriers and contractors or subcontractors to railroad carriers who perform maintenance-of-way activities.

TITLE V—RAIL PASSENGER DISASTER FAMILY ASSISTANCE

SEC. 501. ASSISTANCE BY NATIONAL TRANSPORTATION SAFETY BOARD TO FAMILIES OF PASSENGERS INVOLVED IN RAIL PASSENGER ACCIDENTS.

(a) IN GENERAL.—Chapter 11 is amended by adding at the end of subchapter III the following:

''§ 1139. Assistance to families of passengers involved in rail passenger accidents

''(a) IN GENERAL.—As soon as practicable after being notified of a rail passenger accident within the United States involving a rail passenger carrier and resulting in a major loss of life, the Chairman of the National Transportation Safety Board shall—

''(1) designate and publicize the name and phone number of a director of family support services who shall be an employee of the Board and shall be responsible for acting as a point of contact within the Federal Government for the families of passengers involved in the accident and a liaison between the rail passenger carrier and the families; and

''(2) designate an independent nonprofit organization, with experience in disasters and posttrauma communication with families, which shall have primary responsibility for coordinating the emotional care and support of the families of passengers involved in the accident.

''(b) RESPONSIBILITIES OF THE BOARD.—The Board shall have primary Federal responsibility for—

''(1) facilitating the recovery and identification of fatally injured passengers involved in an accident described in subsection (a); and

''(2) communicating with the families of passengers involved in the accident as to the roles of—

''(A) the organization designated for an accident under subsection (a)(2);

''(B) Government agencies; and

''(C) the rail passenger carrier involved,

with respect to the accident and the post-accident activities.

''(c) RESPONSIBILITIES OF DESIGNATED ORGANIZATION.—The organization designated for an accident under subsection (a)(2) shall have the following responsibilities with respect to the families of passengers involved in the accident:

''(1) To provide mental health and counseling services, in coordination with the disaster response team of the rail passenger carrier involved.

''(2) To take such actions as may be necessary to provide an environment in which the families may grieve in private.

''(3) To meet with the families who have traveled to the location of the accident, to contact the families unable to travel to such location, and to contact all affected families periodically thereafter until such time as the organization, in consultation with the director of family support services designated for the accident under subsection (a)(1), determines that further assistance is no longer needed.

''(4) To arrange a suitable memorial service, in consultation with the families.

''(d) PASSENGER LISTS.—

''(1) REQUESTS FOR PASSENGER LISTS.—

''(A) REQUESTS BY DIRECTOR OF FAMILY SUPPORT SERVICES.—It shall be the responsibility of the director of family support services designated for an accident under subsection (a)(1) to request, as soon as practicable, from the rail passenger carrier involved in the accident a list, which is based on the best available information at the time of the request, of the names of the passengers that were aboard the rail passenger carrier's train involved in the accident. A rail passenger carrier shall use reasonable efforts, with respect to its unreserved trains, and passengers not holding reservations on its other trains, to ascertain the names of passengers aboard a train involved in an accident.

''(B) REQUESTS BY DESIGNATED ORGANIZATION.—The organization designated for an accident under subsection (a)(2) may request from the rail passenger carrier involved in the accident a list described in subparagraph (A).

''(2) USE OF INFORMATION.—Except as provided in subsection (k), the director of family support services and the organization may not release to any person information on a list obtained under paragraph (1) but may provide information on the list about a passenger to the family of the passenger to the extent that the director of family support services or the organization considers appropriate.

''(e) CONTINUING RESPONSIBILITIES OF THE BOARD.—In the course of its investigation of an accident described in subsection (a), the Board shall, to the maximum extent practicable, ensure that the families of passengers involved in the accident—

''(1) are briefed, prior to any public briefing, about the accident and any other findings from the investigation; and

''(2) are individually informed of and allowed to attend any public hearings and meetings of the Board about the accident.

''(f) USE OF RAIL PASSENGER CARRIER RESOURCES.—To the extent practicable, the organization designated for an accident under subsection (a)(2) shall coordinate its activities with the rail passenger carrier involved in the accident to facilitate the reasonable use of the resources of the carrier.

''(g) PROHIBITED ACTIONS.—

''(1) ACTIONS TO IMPEDE THE BOARD.—No person (including a State or political subdivision) may impede the ability of the Board (including the director of family support services designated for an accident under subsection (a)(1)), or an organization designated for an accident under subsection (a)(2), to carry out its responsibilities under this section or the ability of the families of passengers involved in the accident to have contact with one another.

''(2) UNSOLICITED COMMUNICATIONS.—No unsolicited communication concerning a potential action for personal injury or wrongful death may be made by an attorney (including any associate, agent, employee, or other representative of an attorney) or any potential party to the litigation to an individual (other than an employee of the rail passenger carrier) injured in the accident, or to a relative of an individual involved in the accident, before the 45th day following the date of the accident.

''(3) PROHIBITION ON ACTIONS TO PREVENT MENTAL HEALTH AND COUNSELING SERVICES.—No State or political subdivision may prevent the employees, agents, or volunteers of an organization designated for an accident under subsection (a)(2) from providing mental health and counseling services under subsection (c)(1) in the 30-day period beginning on the date of the accident. The director of family support services designated for the accident under subsection (a)(1) may extend such period for not to exceed an additional 30 days if the director determines that the extension is necessary to meet the needs of the families and if State and local authorities are notified of the determination.

''(h) DEFINITIONS.—In this section:

''(1) RAIL PASSENGER ACCIDENT.—The term 'rail passenger accident' means any rail passenger disaster resulting in a major loss of life occurring in the provision of—

''(A) interstate intercity rail passenger transportation (as such term is defined in section 24102); or

''(B) interstate or intrastate high-speed rail (as such term is defined in section 26105) transportation,

regardless of its cause or suspected cause.

''(2) RAIL PASSENGER CARRIER.—The term 'rail passenger carrier' means a rail carrier providing—

''(A) interstate intercity rail passenger transportation (as such term is defined in section 24102); or

''(B) interstate or intrastate high-speed rail (as such term is defined in section 26105) transportation,

except that such term does not include a tourist, historic, scenic, or excursion rail carrier.

''(3) PASSENGER.—The term 'passenger' includes—

''(A) an employee of a rail passenger carrier aboard a train;

''(B) any other person aboard the train without regard to whether the person paid for the transportation, occupied a seat, or held a reservation for the rail transportation; and

''(C) any other person injured or killed in a rail passenger accident, as determined appropriate by the Board.

''(i) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed as limiting the actions that a rail passenger carrier may take, or the obligations that a rail passenger carrier may have, in providing assistance to the families of passengers involved in a rail passenger accident.

''(j) RELINQUISHMENT OF INVESTIGATIVE PRIORITY.—

''(1) GENERAL RULE.—This section (other than subsection (g)) shall not apply to a railroad accident if the Board has relinquished investigative priority under section 1131(a)(2)(B) and the Federal agency to which the Board relinquished investigative priority is willing and able to provide assistance to the victims and families of the passengers involved in the accident.

''(2) BOARD ASSISTANCE.—If this section does not apply to a railroad accident because the Board has relinquished investigative priority with respect to the accident, the Board shall assist, to the maximum extent possible, the agency to which the Board has relinquished investigative priority in assisting families with respect to the accident.

''(k) SAVINGS CLAUSE.—Nothing in this section shall be construed to abridge the authority of the Board or the Secretary of Transportation to investigate the causes or circumstances of any rail accident, including development of information regarding the nature of injuries sustained and the manner in which they were sustained for the purposes of determining compliance with existing laws and regulations or for identifying means of preventing similar injuries in the future, or both.''.

(b) CONFORMING AMENDMENT.—The table of sections for such chapter is amended by inserting after the item relating to section 1138 the following:

''1139. Assistance to families of passengers involved in rail passenger accidents''.

SEC. 502. RAIL PASSENGER CARRIER PLAN TO ASSIST FAMILIES OF PASSENGERS INVOLVED IN RAIL PASSENGER ACCIDENTS.

(a) IN GENERAL.—Chapter 243 is amended by adding at the end the following:

''§ 24316. Plans to address needs of families of passengers involved in rail passenger accidents

''(a) SUBMISSION OF PLAN.—Not later than 6 months after the date of the enactment of the Railroad Safety Enhancement Act of 2008, a rail passenger carrier shall submit to the Chairman of the National Transportation Safety Board, the Secretary of Transportation, and the Secretary of Homeland Security a plan for addressing the needs of the families of passengers involved in any rail passenger accident involving a rail passenger carrier intercity train and resulting in a major loss of life.

''(b) CONTENTS OF PLANS.—The plan to be submitted by a rail passenger carrier under subsection (a) shall include, at a minimum, the following:

''(1) A process by which a rail passenger carrier will maintain and provide to the National Transportation Safety Board, the Secretary of Transportation, and the Secretary of Homeland Security, immediately upon request, a list (which is based on the best available information at the time of the request) of the names of the passengers aboard the train (whether or not such names have been verified), and will periodically update the list. The plan shall include a procedure, with respect to unreserved trains and passengers not holding reservations on other trains, for a rail passenger carrier to use reasonable efforts to ascertain the number and names of passengers aboard a train involved in an accident.

''(2) A plan for creating and publicizing a reliable, toll-free telephone number within 4 hours after such an accident occurs, and for providing staff, to handle calls from the families of the passengers.

''(3) A process for notifying the families of the passengers, before providing any public notice of the names of the passengers, by suitably trained individuals.

''(4) A process for providing the notice described in paragraph (2) to the family of a passenger as soon as a rail passenger carrier has verified that the passenger was aboard the train (whether or not the names of all of the passengers have been verified).

''(5) A process by which the family of each passenger will be consulted about the disposition of all remains and personal effects of the passenger within a rail passenger carrier's control; that any possession of the passenger within a rail passenger carrier's control will be returned to the family unless the possession is needed for the accident investigation or any criminal investigation; and that any unclaimed possession of a passenger within a rail passenger carrier's control will be retained by the rail passenger carrier for at least 18 months.

''(6) A process by which the treatment of the families of nonrevenue passengers will be the same as the treatment of the families of revenue passengers.

''(7) An assurance that a rail passenger carrier will provide adequate training to its employees and agents to meet the needs of survivors and family members following an accident.

''(c) USE OF INFORMATION.—Neither the National Transportation Safety Board, the Secretary of Transportation, the Secretary of Homeland Security, nor a rail passenger carrier may release any personal information on a list obtained under subsection (b)(1) but may provide information on the list about a passenger to the family of the passenger to the extent that the Board or a rail passenger carrier considers appropriate.

''(d) LIMITATION ON LIABILITY.—A rail passenger carrier shall not be liable for damages in any action brought in a Federal or State court arising out of the performance of a rail passenger carrier under this section in preparing or providing a passenger list, or in providing information concerning a train reservation, pursuant to a plan submitted by a rail passenger carrier under subsection (b), unless such liability was caused by a rail passenger carrier's gross negligence or extreme misconduct.

''(e) LIMITATIONS ON STATUTORY CONSTRUCTION.—

''(1) RAIL PASSENGER CARRIERS.—Nothing in this section may be construed as limiting the actions that a rail passenger carrier may take, or the obligations that a rail passenger carrier may have, in providing assistance to the families of passengers involved in a rail passenger accident.

''(2) INVESTIGATIONAL AUTHORITY OF BOARD AND SECRETARY.—Nothing in this section shall be construed to abridge the authority of the Board or the Secretary of Transportation to investigate the causes or circumstances of any rail accident, including the development of information regarding the nature of injuries sustained and the manner in which they were sustained, for the purpose of determining compliance with existing laws and regulations or identifying means of preventing similar injuries in the future.

''(f) FUNDING.—Out of funds appropriated pursuant to section 20117(a)(1)(A), there shall be made available to the Secretary of Transportation $500,000 for fiscal year 2008 to carry out this section. Amounts made available pursuant to this subsection shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 243 is amended by adding at the end the following:

''24316. Plan to assist families of passengers involved in rail passenger accidents''.

SEC. 503. ESTABLISHMENT OF TASK FORCE.

(a) ESTABLISHMENT.—The Secretary, in cooperation with the National Transportation Safety Board, organizations potentially designated under section 1139(a)(2) of title 49, United States Code, rail passenger carriers (as defined in section 1139(h)(2) of title 49, United States Code), and families which have been involved in rail accidents, shall establish a task force consisting of representatives of such entities and families, representatives of rail passenger carrier employees, and representatives of such other entities as the Secretary considers appropriate.

(b) MODEL PLAN AND RECOMMENDATIONS.—The task force established pursuant to subsection (a) shall develop—

(1) a model plan to assist rail passenger carriers in responding to passenger rail accidents;

(2) recommendations on methods to improve the timeliness of the notification provided by passenger rail carriers to the families of passengers involved in a passenger rail accident;

(3) recommendations on methods to ensure that the families of passengers involved in a passenger rail accident who are not citizens of the United States receive appropriate assistance; and

(4) recommendations on methods to ensure that emergency services personnel have as immediate and accurate a count of the number of passengers onboard the train as possible.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report containing the model plan and recommendations developed by the task force under subsection (b).

TITLE VI—CLARIFICATION OF FEDERAL JURISDICTION OVER SOLID WASTE FACILITIES

SEC. 601. SHORT TITLE.

This title may be cited as the ''Clean Railroads Act of 2007''.

SEC. 602. CLARIFICATION OF GENERAL JURISDICTION OVER SOLID WASTE TRANSFER FACILITIES.

Section 10501(c)(2) is amended to read as follows:

''(2) Except as provided in paragraph (3), the Board does not have jurisdiction under this part over—

''(A) mass transportation provided by a local government authority; or

''(B) a solid waste rail transfer facility as defined in section 10908 of this title, except as provided under sections 10908 and 10909 of this title.

SEC. 603. REGULATION OF SOLID WASTE RAIL TRANSFER FACILITIES.

(a) IN GENERAL.—Chapter 109 is amended by adding at the end thereof the following:

''§ 10908. Regulation of solid waste rail transfer facilities

''(a) IN GENERAL.—Each solid waste rail transfer facility shall be subject to and shall comply with all applicable Federal and State requirements, both substantive and procedural, including judicial and administrative orders and fines, respecting the prevention and abatement of pollution, the protection and restoration of the environment, and the protection of public health and safety, including laws governing solid waste, to the same extent as required for any similar solid waste management facility, as defined in section 1004(29) of the Solid Waste Disposal Act (42 U.S.C. 6903(29)) that is not owned or operated by or on behalf of a rail carrier, except as provided for in section 10909 of this chapter.

''(b) EXISTING FACILITIES.—

''(1) STATE LAWS AND STANDARDS.—Within 90 days after the date of enactment of the Clean Railroads Act of 2008, a solid waste rail transfer facility operating as of such date of enactment shall comply with all Federal and State requirements pursuant to subsection (a) other than those provisions requiring permits.

''(2) PERMIT REQUIREMENTS.—

''(A) STATE NON-SITING PERMITS.—Any solid waste rail transfer facility operating as of the date of enactment of the Clean Railroads Act of 2008 that does not possess a permit required pursuant to subsection (a), other than a siting permit for the facility, as of the date of enactment of the Clean Railroads Act of 2008 shall not be required to possess any such permits in order to operate the facility—

''(i) if, within 180 days after such date of enactment, the solid waste rail transfer facility has submitted, in good faith, a complete application for all permits, except siting permits, required pursuant to subsection (a) to the appropriate permitting agency authorized to grant such permits; and

''(ii) until the permitting agency has either approved or denied the solid waste rail transfer facility's application for each permit.

''(B) SITING PERMITS AND REQUIREMENTS.—A solid waste rail transfer facility operating as of the date of enactment of the Clean Railroads Act of 2008 that does not possess a State siting permit required pursuant to subsection (a) as of such date of enactment shall not be required to possess any siting permit to continue to operate or comply with any State land use requirements. The Governor of a State in which the facility is located or his or her designee may petition the Board to require the facility to apply for a land-use exemption pursuant to section 10909 of this chapter. The Board shall accept the petition, and the facility shall be required to have a Board-issued land-use exemption in order to continue to operate, pursuant to section 10909 of this chapter.

''(c) COMMON CARRIER OBLIGATION.—No prospective or current rail carrier customer may demand solid waste rail transfer service from a rail carrier at a solid waste rail transfer facility that does not already possess the necessary Federal land use exemption and State permits at the location where service is requested.

''(d) NON-WASTE COMMODITIES.—Nothing in this section or section 10909 of this chapter shall affect a rail carrier's ability to conduct transportation-related activities with respect to commodities other than solid waste.

''(e) DEFINITIONS.—

''(1) IN GENERAL.—In this section:

''(A) COMMERCIAL AND RETAIL WASTE.—The term 'commercial and retail waste' means material discarded by stores, offices, restaurants, warehouses, nonmanufacturing activities at industrial facilities, and other similar establishments or facilities.

''(B) CONSTRUCTION AND DEMOLITION DEBRIS.—The term 'construction and demolition debris' means waste building materials, packaging, and rubble resulting from construction, remodeling, repair, and demolition operations on pavements, houses, commercial buildings, and other structures.

''(C) HOUSEHOLD WASTE.—The term 'household waste' means material discarded by residential dwellings, hotels, motels, and other similar permanent or temporary housing establishments or facilities.

''(D) INDUSTRIAL WASTE.—The term 'industrial waste' means the solid waste generated by manufacturing and industrial and research and development processes and operations, including contaminated soil, nonhazardous oil spill cleanup waste and dry nonhazardous pesticides and chemical waste, but does not include hazardous waste regulated under subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.), mining or oil and gas waste.

''(E) INSTITUTIONAL WASTE.—The term 'institutional waste' means material discarded by schools, nonmedical waste discarded by hospitals, material discarded by nonmanufacturing activities at prisons and government facilities, and material discarded by other similar establishments or facilities.

''(F) MUNICIPAL SOLID WASTE.—The term 'municipal solid waste' means—

''(i) household waste;

''(ii) commercial and retail waste; and

''(iii) institutional waste.

''(G) SOLID WASTE.—With the exception of waste generated by a rail carrier during track, track structure, or right-of-way construction, maintenance, or repair (including railroad ties and line-side poles) or waste generated as a result of a railroad accident, incident, or derailment, the term 'solid waste' means—

''(i) construction and demolition debris;
''(ii) municipal solid waste;
''(iii) household waste;
''(iv) commercial and retail waste;
''(v) institutional waste;
''(vi) sludge;
''(vii) industrial waste; and
''(viii) other solid waste, as determined appropriate by the Board.

''(H) SOLID WASTE RAIL TRANSFER FACILITY.—The term 'solid waste rail transfer facility'—

''(i) means the portion of a facility owned or operated by or on behalf of a rail carrier (as defined in section 10102 of this title) where solid waste, as a commodity to be transported for a charge, is collected, stored, separated, processed, treated, managed, disposed of, or transferred, when the activity takes place outside of original shipping containers; but

''(ii) does not include—

''(I) the portion of a facility to the extent that activities taking place at such portion are comprised solely of the railroad transportation of solid waste after the solid waste is loaded for shipment on or in a rail car, including railroad transportation for the purpose of interchanging railroad cars containing solid waste shipments; or

''(II) a facility where solid waste is solely transferred or transloaded from a tank truck directly to a rail tank car.

''(I) SLUDGE.—The term 'sludge' means any solid, semi-solid or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility exclusive of the treated effluent from a wastewater treatment plant.

''(2) EXCEPTIONS.—Notwithstanding paragraph (1), the terms 'household waste', 'commercial and retail waste', and 'institutional waste' do not include—

''(A) yard waste and refuse-derived fuel;
''(B) used oil;
''(C) wood pallets;
''(D) clean wood;
''(E) medical or infectious waste; or
''(F) motor vehicles (including motor vehicle parts or vehicle fluff).

''(3) STATE REQUIREMENTS.—In this section the term 'State requirements' does not include the laws, regulations, ordinances, orders, or other requirements of a political subdivision of a State, including a locality or municipality, unless a State expressly delegates such authority to such political subdivision.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 109 is amended by inserting after the item relating to section 10907 the following:

''10908. Regulation of solid waste rail transfer facilities''.

SEC. 604. SOLID WASTE RAIL TRANSFER FACILITY LAND-USE EXEMPTION AUTHORITY.

(a) IN GENERAL.—Chapter 109 is further amended by adding at the end thereof the following:

''§ 10909. Solid waste rail transfer facility land-use exemption

''(a) AUTHORITY.—The Board may issue a land-use exemption for a solid waste rail transfer facility that is or is proposed to be operated by or on behalf of a rail carrier if—

''(1) the Board finds that a State, local, or municipal law, regulation, order, or other requirement affecting the siting of such facility unreasonably burdens the interstate transportation of solid waste by railroad, discriminates against the railroad transportation of solid waste and a solid waste rail transfer facility, or a rail carrier that owns or operates such a facility petitions the Board for such an exemption; or

''(2) the Governor of a State in which a facility that is operating as of the date of enactment of the Clean Railroads Act of 2008 is located, or his or her designee, petitions the Board to initiate a permit proceeding for that particular facility.

''(b) LAND-USE EXEMPTION PROCEDURES.—No later than 90 days after the date of enactment of the Clean Railroad Act of 2008, the Board shall publish procedures governing the submission and review of applications for solid waste rail transfer facility land-use exemptions. At a minimum, the procedures shall address—

''(1) the information that each application should contain to explain how the solid waste rail transfer facility will not pose an unreasonable risk to public health, safety or the environment;

''(2) the opportunity for public notice and comment including notification of the municipality, the State, and any relevant Federal or State regional planning entity in the jurisdiction of which the solid waste rail transfer facility is proposed to be located;

''(3) the timeline for Board review, including a requirement that the Board approve or deny an exemption within 90 days after the full record for the application is developed;

''(4) the expedited review timelines for petitions for modifications, amendments, or revocations of granted exemptions;

''(5) the process for a State to petition the Board to require a solid waste transfer facility or a rail carrier that owns or operates such a facility to apply for a siting permit; and

''(6) the process for a solid waste transfer facility or a rail carrier that owns or operates such a facility to petition the Board for a land-use exemption.

''(c) STANDARD FOR REVIEW.—

''(1) The Board may only issue a land use exemption if it determines that the facility at the existing or proposed location does not pose an unreasonable risk to public health, safety, or the environment. In deciding whether a solid waste rail transfer facility that is or proposed to be constructed or operated by or on behalf of a rail carrier poses an unreasonable risk to public health, safety, or the environment, the Board shall weigh the particular facility's potential benefits to and the adverse impacts on public health, public safety, the environment, interstate commerce, and transportation of solid waste by rail.

''(2) The Board may not grant a land-use exemption for a solid waste rail transfer facility proposed to be located on land within any unit of or land affiliated with the National Park System, the National Wildlife Refuge System, the National Wilderness Preservation System, the National Trails System, the National Wild and Scenic Rivers System, a National Reserve, a National Monument, or lands referenced in Public Law 108–421 for which a State has implemented a conservation management plan, if operation of the facility would be inconsistent with restrictions placed on such land.

''(d) CONSIDERATIONS.—When evaluating an application under this section, the Board shall consider and give due weight to the following, as applicable:

''(1) the land use, zoning, and siting regulations or solid waste planning requirements of the State or State subdivision in which the facility is or will be located that are applicable to solid waste transfer facilities, including those that are not owned or operated by or on behalf of a rail carrier;

''(2) the land use, zoning, and siting regulations or solid waste planning requirements applicable to the property where the solid waste rail transfer facility is proposed to be located;

''(3) regional transportation planning requirements developed pursuant to Federal and State law;

''(4) regional solid waste disposal plans developed pursuant to State or Federal law;

''(5) any Federal and State environmental protection laws or regulations applicable to the site;

''(6) any unreasonable burdens imposed on the interstate transportation of solid waste by railroad, or the potential for discrimination against the railroad transportation of solid waste, a solid waste rail transfer facility, or a rail carrier that owns or operates such a facility; and

''(7) any other relevant factors, as determined by the Board.

(e) EXISTING FACILITIES.—Upon the granting of petition from the State in which a solid waste rail transfer facility is operating as of the date of enactment of the Clean Railroads Act of 2008 by the Board, the facility shall submit a complete application for a siting permit to the Board pursuant to the procedures issued pursuant to subsection (b). No State may enforce a law, regulation, order, or other requirement affecting the siting of a facility that is operating as of the date of enactment of the Clean Railroads Act of 2008 until the Board has approved or denied a permit pursuant to subsection (c).

''(f) EFFECT OF LAND-USE EXEMPTION.—If the Board grants a land-use exemption to a solid waste rail transfer facility, all State laws, regulations, orders, or other requirements affecting the siting of a facility are preempted with regard to that facility. An exemption may require compliance with such State laws, regulations, orders, or other requirements.

''(g) INJUNCTIVE RELIEF.—Nothing in this section precludes a person from seeking an injunction to enjoin a solid waste rail transfer facility from being constructed or operated by or on behalf of a rail carrier if that facility has materially violated, or will materially violate, its land use exemption or if it failed to receive a valid land-use exemption under this section.

''(h) FEES.—The Board may charge permit applicants reasonable fees to implement this section, including the costs of third-party consultants.

''(i) DEFINITIONS.—In this section the terms 'solid waste', 'solid waste rail transfer facility', and 'State requirements' have the meaning given such terms in section 10908(e).''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 109, as amended by section 603 of this Act, is amended by inserting after the item relating to section 10908 the following:

''10909. Solid waste rail transfer facility land-use exemption''.

SEC. 605. EFFECT ON OTHER STATUTES AND AUTHORITIES.

(a) IN GENERAL.—Chapter 109 is further amended by adding at the end thereof the following:

''§ 10910. Effect on other statutes and authorities

''Nothing in section 10908 or 10909 is intended to affect the traditional police powers of the State to require a rail carrier to comply with State and local environmental, public health, and public safety standards that are not unreasonably burdensome to interstate commerce and do not discriminate against rail carriers.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 109, as amended by section 604 of this Act, is amended by inserting after the item relating to section 10909 the following:

''10910. Effect on other statutes and authorities''.

TITLE VII—TECHNICAL CORRECTIONS

SEC. 701. TECHNICAL CORRECTIONS.

(a) LIMITATIONS ON FINANCIAL ASSISTANCE.—Section 22106 is amended—

(1) by striking the second sentence of subsection (a);

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

''(b) STATE USE OF REPAID FUNDS AND CONTINGENT INTEREST RECOVERIES.—The State shall place the United States Government's share of money that is repaid and any contingent interest that is recovered in an interest-bearing account. The repaid money, contingent interest, and any interest thereof shall be considered to be State funds. The State shall use such funds to make other grants and loans, consistent with the purposes for which financial assistance may be used under subsection (a), as the State considers to be appropriate.''; and

(3) by striking subsections (c) and (e) and redesignating subsection (d) as subsection (c).

(b) GRANTS FOR CLASS II AND III RAILROADS.—Section 22301(a)(1)(A)(iii) is amended by striking ''and'' and inserting ''or''.

(c) RAIL TRANSPORTATION OF RENEWABLE FUEL STUDY.—Section 245(a)(1) of the Energy Independence and Security Act of 2007 is amended by striking ''Secretary, in coordination with the Secretary of Transportation,'' and inserting ''Secretary and the Secretary of Transportation''.

(d) MOTOR CARRIER DEFINITION.—

Section 14504a of title 49, United States Code, is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by inserting ''(except as provided in paragraph (5))'' after ''14506'';

(B) in paragraph (1), by striking subparagraph (A) and inserting the following:

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'commercial motor vehicle'—

''(i) for calendar years 2008 and 2009, has the meaning given the term in section 31101; and

''(ii) for years beginning after December 31, 2009, means a self-propelled vehicle described in section 31101.''; and

(C) by striking paragraph (5) and inserting the following:

''(5) MOTOR CARRIER.—

''(A) THIS SECTION.—In this section:

''(i) IN GENERAL.—The term 'motor carrier' includes all carriers that are otherwise exempt from this part—

''(I) under subchapter I of chapter 135; or

''(II) through exemption actions by the former Interstate Commerce Commission under this title.

''(ii) EXCLUSIONS.—In this section, the term 'motor carrier' does not include—

''(I) any carrier subject to section 13504; or

''(II) any other carrier that the board of directors of the unified carrier registration plan determines to be appropriate pursuant to subsection (d)(4)(C).

''(B) SECTION 14506.—In section 14506, the term 'motor carrier' includes all carriers that are otherwise exempt from this part—

''(i) under subchapter I of chapter 135; or

''(ii) through exemption actions by the former Interstate Commerce Commission under this title.''; and

(2) in subsection (d)(4)(C), by inserting before the period at the end the following: '', except that a decision to approve the exclusion of carriers from the definition of the term 'motor carrier' under subsection (a)(5) shall require an affirmative vote of ¾ of all such directors.''.

SA 5260. Ms. CANTWELL (for Mr. SMITH (for himself, Mr. KOHL, Mr. SPECTER, and Mr. CARDIN)) proposed an amendment to the bill H.R. 2608, to amend section 402 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to provide, in fiscal years 2009 through 2011, extensions of supplemental security income for refugees, asylees, and certain other humanitarian immigrants, and to amend the Internal Revenue Code of 1986 to collect unemployment compensation debts resulting from fraud.; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''SSI Extension for Elderly and Disabled Refugees Act''.

SEC. 2. SSI EXTENSIONS FOR HUMANITARIAN IMMIGRANTS.

Section 402(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)) is amended by adding at the end the following:

''(M) SSI EXTENSIONS THROUGH FISCAL YEAR 2011.—

''(i) TWO-YEAR EXTENSION FOR CERTAIN ALIENS AND VICTIMS OF TRAFFICKING.—

''(I) IN GENERAL.—Subject to clause (ii), with respect to eligibility for benefits under subparagraph (A) for the specified Federal program described in paragraph (3)(A) of qualified aliens (as defined in section 431(b)) and victims of trafficking in persons (as defined in section 107(b)(1)(C) of division A of the Victims of Trafficking and Violence Protection Act of 2000 (Public Law 106–386) or as granted status under section 101(a)(15)(T)(ii) of the Immigration and Nationality Act), the 7-year period described in subparagraph (A) shall be deemed to be a 9-year period during fiscal years 2009 through 2011 in the case of such a qualified alien or victim of trafficking who furnishes to the Commissioner of Social Security the declaration required under subclause (IV) (if applicable) and is described in subclause (III).

''(II) ALIENS AND VICTIMS WHOSE BENEFITS CEASED IN PRIOR FISCAL YEARS.—Subject to clause (ii), beginning on the date of the enactment of the SSI Extension for Elderly and Disabled Refugees Act, any qualified alien (as defined in section 431(b)) or victim of trafficking in persons (as defined in section 107(b)(1)(C) of division A of the Victims of Trafficking and Violence Protection Act of 2000 (Public Law 106–386) or as granted status under section 101(a)(15)(T)(ii) of the Immigration and Nationality Act) rendered ineligible for the specified Federal program described in paragraph (3)(A) during the period beginning on August 22, 1996, and ending on September 30, 2008, solely by reason of the termination of the 7-year period described in subparagraph (A) shall be eligible for such program for an additional 2-year period in accordance with this clause, if such qualified alien or victim of trafficking meets all other eligibility factors under title XVI of the Social Security Act, furnishes to the Commissioner of Social Security the declaration required under subclause (IV) (if applicable), and is described in subclause (III).

''(III) ALIENS AND VICTIMS DESCRIBED.—For purposes of subclauses (I) and (II), a qualified alien or victim of trafficking described in this subclause is an alien or victim who—

''(aa) has been a lawful permanent resident for less than 6 years and such status has not been abandoned, rescinded under section 246 of the Immigration and Nationality Act, or terminated through removal proceedings under section 240 of the Immigration and Nationality Act, and the Commissioner of Social Security has verified such status, through procedures established in consultation with the Secretary of Homeland Security;

''(bb) has filed an application, within 4 years from the date the alien or victim began receiving supplemental security income benefits, to become a lawful permanent resident with the Secretary of Homeland Security, and the Commissioner of Social Security has verified, through procedures established in consultation with such Secretary, that such application is pending;

''(cc) has been granted the status of Cuban and Haitian entrant, as defined in section 501(e) of the Refugee Education Assistance Act of 1980 (Public Law 96–422), for purposes of the specified Federal program described in paragraph (3)(A);

''(dd) has had his or her deportation withheld by the Secretary of Homeland Security under section 243(h) of the Immigration and Nationality Act (as in effect immediately before the effective date of section 307 of division C of Public Law 104–208), or whose removal is withheld under section 241(b)(3) of such Act;

''(ee) has not attained age 18; or

''(ff) has attained age 70.

''(IV) DECLARATION REQUIRED.—

''(aa) IN GENERAL.—For purposes of subclauses (I) and (II), the declaration required under this subclause of a qualified alien or victim of trafficking described in either such subclause is a declaration under penalty of perjury stating that the alien or victim has made a good faith effort to pursue United States citizenship, as determined by the Secretary of Homeland Security. The Commissioner of Social Security shall develop criteria as needed, in consultation with the Secretary of Homeland Security, for consideration of such declarations.

''(bb) EXCEPTION FOR CHILDREN.—A qualified alien or victim of trafficking described in subclause (I) or (II) who has not attained age 18 shall not be required to furnish to the Commissioner of Social Security a declaration described in item (aa) as a condition of being eligible for the specified Federal program described in paragraph (3)(A) for an additional 2-year period in accordance with this clause.

''(V) PAYMENT OF BENEFITS TO ALIENS WHOSE BENEFITS CEASED IN PRIOR FISCAL YEARS.—Benefits paid to a qualified alien or victim described in subclause (II) shall be paid prospectively over the duration of the qualified alien's or victim's renewed eligibility.

''(ii) SPECIAL RULE IN CASE OF PENDING OR APPROVED NATURALIZATION APPLICATION.—With respect to eligibility for benefits for the specified program described in paragraph (3)(A), paragraph (1) shall not apply during fiscal years 2009 through 2011 to an alien described in one of clauses (i) through (v) of subparagraph (A) or a victim of trafficking in persons (as defined in section 107(b)(1)(C) of division A of the Victims of Trafficking and Violence Protection Act of 2000 (Public Law 106–386) or as granted status under section 101(a)(15)(T)(ii) of the Immigration and Nationality Act), if such alien or victim (including any such alien or victim rendered ineligible for the specified Federal program described in paragraph (3)(A) during the period beginning on August 22, 1996, and ending on September 30, 2008, solely by reason of the termination of the 7-year period described in subparagraph (A)) has filed an application for naturalization that is pending before the Secretary of Homeland Security or a United States district court based on section 336(b) of the Immigration and Nationality Act, or has been approved for naturalization but not yet sworn in as a United States citizen, and the Commissioner of Social Security has verified, through procedures established in consultation with the Secretary of Homeland Security, that such application is pending or has been approved.''.

SEC. 3. COLLECTION OF UNEMPLOYMENT COMPENSATION DEBTS RESULTING FROM FRAUD.

(a) IN GENERAL.—Section 6402 of the Internal Revenue Code (relating to authority to make credits or refunds) is amended by redesignating subsections (f) through (k) as subsections (g) through (l), respectively, and by inserting after subsection (e) the following new subsection:

''(f) COLLECTION OF UNEMPLOYMENT COMPENSATION DEBTS RESULTING FROM FRAUD.—

''(1) IN GENERAL.—Upon receiving notice from any State that a named person owes a covered unemployment compensation debt to such State, the Secretary shall, under such conditions as may be prescribed by the Secretary—

''(A) reduce the amount of any overpayment payable to such person by the amount of such covered unemployment compensation debt;

''(B) pay the amount by which such overpayment is reduced under subparagraph (A) to such State and notify such State of such person's name, taxpayer identification number, address, and the amount collected; and

''(C) notify the person making such overpayment that the overpayment has been reduced by an amount necessary to satisfy a covered unemployment compensation debt.

If an offset is made pursuant to a joint return, the notice under subparagraph (C) shall include information related to the rights of a spouse of a person subject to such an offset.

''(2) PRIORITIES FOR OFFSET.—Any overpayment by a person shall be reduced pursuant to this subsection—

''(A) after such overpayment is reduced pursuant to—

''(i) subsection (a) with respect to any liability for any internal revenue tax on the part of the person who made the overpayment;

''(ii) subsection (c) with respect to past-due support; and

''(iii) subsection (d) with respect to any past-due, legally enforceable debt owed to a Federal agency; and

''(B) before such overpayment is credited to the future liability for any Federal internal revenue tax of such person pursuant to subsection (b).

If the Secretary receives notice from a State or States of more than one debt subject to paragraph (1) or subsection (e) that is owed by a person to such State or States, any overpayment by such person shall be applied against such debts in the order in which such debts accrued.

''(3) OFFSET PERMITTED ONLY AGAINST RESIDENTS OF STATE SEEKING OFFSET.—Paragraph (1) shall apply to an overpayment by any person for a taxable year only if the address shown on the Federal return for such taxable year of the overpayment is an address within the State seeking the offset.

''(4) NOTICE; CONSIDERATION OF EVIDENCE.—No State may take action under this subsection until such State—

''(A) notifies by certified mail with return receipt the person owing the covered unemployment compensation debt that the State proposes to take action pursuant to this section;

''(B) provides such person at least 60 days to present evidence that all or part of such liability is not legally enforceable or due to fraud;

''(C) considers any evidence presented by such person and determines that an amount of such debt is legally enforceable and due to fraud; and

''(D) satisfies such other conditions as the Secretary may prescribe to ensure that the determination made under subparagraph (C) is valid and that the State has made reasonable efforts to obtain payment of such covered unemployment compensation debt.

''(5) COVERED UNEMPLOYMENT COMPENSATION DEBT.—For purposes of this subsection, the term 'covered unemployment compensation debt' means—

''(A) a past-due debt for erroneous payment of unemployment compensation due to fraud which has become final under the law of a State certified by the Secretary of Labor pursuant to section 3304 and which remains uncollected for not more than 10 years;

''(B) contributions due to the unemployment fund of a State for which the State has determined the person to be liable due to fraud and which remain uncollected for not more than 10 years; and

''(C) any penalties and interest assessed on such debt.

''(6) REGULATIONS.—

''(A) IN GENERAL.—The Secretary may issue regulations prescribing the time and manner in which States must submit notices of covered unemployment compensation debt and the necessary information that must be contained in or accompany such notices. The regulations may specify the minimum amount of debt to which the reduction procedure established by paragraph (1) may be applied.

''(B) FEE PAYABLE TO SECRETARY.—The regulations may require States to pay a fee to the Secretary, which may be deducted from amounts collected, to reimburse the Secretary for the cost of applying such procedure. Any fee paid to the Secretary pursuant to the preceding sentence shall be used to reimburse appropriations which bore all or part of the cost of applying such procedure.

''(C) SUBMISSION OF NOTICES THROUGH SECRETARY OF LABOR.—The regulations may include a requirement that States submit notices of covered unemployment compensation debt to the Secretary via the Secretary of Labor in accordance with procedures established by the Secretary of Labor. Such procedures may require States to pay a fee to the Secretary of Labor to reimburse the Secretary of Labor for the costs of applying this subsection. Any such fee shall be established in consultation with the Secretary of the Treasury. Any fee paid to the Secretary of Labor may be deducted from amounts collected and shall be used to reimburse the appropriation account which bore all or part of the cost of applying this subsection.

''(7) ERRONEOUS PAYMENT TO STATE.—Any State receiving notice from the Secretary that an erroneous payment has been made to such State under paragraph (1) shall pay promptly to the Secretary, in accordance with such regulations as the Secretary may prescribe, an amount equal to the amount of such erroneous payment (without regard to whether any other amounts payable to such State under such paragraph have been paid to such State).

''(8) TERMINATION.—This section shall not apply to refunds payable after the date which is 10 years after the date of the enactment of this subsection.''.

(b) DISCLOSURE OF CERTAIN INFORMATION TO STATES REQUESTING REFUND OFFSETS FOR LEGALLY ENFORCEABLE STATE UNEMPLOYMENT COMPENSATION DEBT RESULTING FROM FRAUD.—

(1) GENERAL RULE.—Paragraph (3) of section 6103(a) of such Code is amended by inserting ''(10),'' after ''(6),''.

(2) DISCLOSURE TO DEPARTMENT OF LABOR AND ITS AGENT.—Paragraph (10) of section 6103(l) of such Code is amended—

(A) by striking ''(c), (d), or (e)'' each place it appears in the heading and text and inserting ''(c), (d), (e), or (f)'',

(B) in subparagraph (A) by inserting '', to officers and employees of the Department of Labor for purposes of facilitating the exchange of data in connection with a request made under subsection (f)(5) of section 6402,'' after ''section 6402'', and

(C) in subparagraph (B)—

(i) by inserting ''(i)'' after ''(B)''; and

(ii) by adding at the end the following:

''(ii) Notwithstanding clause (i), return information disclosed to officers and employees of the Department of Labor may be accessed by agents who maintain and provide technological support to the Department of Labor's Interstate Connection Network (ICON) solely for the purpose of providing such maintenance and support.''.

(3) SAFEGUARDS.—Paragraph (4) of section 6103(p) of such Code is amended—

(A) in the matter preceding subparagraph (A), by striking ''(l)(16),'' and inserting ''(l)(10), (16),'';

(B) in subparagraph (F)(i), by striking ''(l)(16),'' and inserting ''(l)(10), (16),''; and

(C) in the matter following subparagraph (F)(iii)—

(i) in each of the first two places it appears, by striking ''(l)(16),'' and inserting ''(l)(10), (16),'';

(ii) by inserting ''(10),'' after ''paragraph (6)(A),''; and

(iii) in each of the last two places it appears, by striking ''(l)(16)'' and inserting ''(l)(10) or (16)''.

(c) EXPENDITURES FROM STATE FUND.—Section 3304(a)(4) of such Code is amended—

(1) in subparagraph (E), by striking ''and'' after the semicolon;

(2) in subparagraph (F), by inserting ''and'' after the semicolon; and

(3) by adding at the end the following new subparagraph:

''(G) with respect to amounts of covered unemployment compensation debt (as defined in section 6402(f)(4)) collected under section 6402(f)—

''(i) amounts may be deducted to pay any fees authorized under such section; and

''(ii) the penalties and interest described in section 6402(f)(4)(B) may be transferred to the appropriate State fund into which the State would have deposited such amounts had the person owing the debt paid such amounts directly to the State;''.

(d) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 6402 of such Code is amended by striking ''(c), (d), and (e),'' and inserting ''(c), (d), (e), and (f)''.

(2) Paragraph (2) of section 6402(d) of such Code is amended by striking ''and before such overpayment is reduced pursuant to subsection (e)'' and inserting ''and before such overpayment is reduced pursuant to subsections (e) and (f)''.

(3) Paragraph (3) of section 6402(e) of such Code is amended in the last sentence by inserting ''or subsection (f)'' after ''paragraph (1)''.

(4) Subsection (g) of section 6402 of such Code, as redesignated by subsection (a), is amended by striking ''(c), (d), or (e)'' and inserting ''(c), (d), (e), or (f)''.

(5) Subsection (i) of section 6402 of such Code, as redesignated by subsection (a), is amended by striking ''subsection (c) or (e)'' and inserting ''subsection (c), (e), or (f)''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to refunds payable under section 6402 of the Internal Revenue Code of 1986 on or after the date of enactment of this Act.

SA 5261. Ms. CANTWELL (for Mr. SMITH) proposed an amendment to the bill H.R. 2608, to amend section 402 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to provide, in fiscal years 2009 through 2011, extensions of supplemental security income for refugees, asylees, and

certain other humanitarian immigrants, and to amend the Internal Revenue Code of 1986 to collect unemployment compensation debts resulting from fraud; as follows:

Amend the title so as to read: ''An Act to amend section 402 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to provide, in fiscal years 2009 through 2011, extensions of supplemental security income for refugees, asylees, and certain other humanitarian immigrants, and to amend the Internal Revenue Code of 1986 to collect unemployment compensation debts resulting from fraud.''.

SA 5262. Ms. CANTWELL (for Mrs. HUTCHISON) proposed an amendment to the bill S. 2507, to address the digital television transition in border states; as follows:

On page 7, line 7, strike ''2014'' and insert ''2013''.

On page 10, line 18, strike the quotation mark and the second period and insert the following:

''(E) LIMITATION ON EXTENSION OF CERTAIN LICENSES.—The Commission shall not extend or renew a full-power television broadcast license that authorizes analog television service on or after February 17, 2013.''.

SA 5263. Ms. CANTWELL (for Mr. LEVIN) proposed an amendment in the joint resolution S.J. Res. 45, expressing the consent and approval of Congress to an inter-state compact regarding water resources in the Great Lakes-St. Lawrence River Basin; as follows:

On page 63, strike lines 4 through 11 and insert the following:

(1) Congress consents to and approves the interstate compact regarding water resources in the Great Lakes—St. Lawrence River Basin described in the preamble;

(2) until a Great Lakes Water Compact is ratified and enforceable, laws in effect as of the date of enactment of this resolution provide protection sufficient to prevent Great Lakes water diversions; and

(3) Congress expressly reserves the right to alter, amend, or repeal this resolution.

SA 5264. Mr. REID (for Mr. LIEBERMAN) proposed an amendment to the bill H.R. 5683, to make certain reforms with respect to the Government Accountability Office, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; REFERENCES; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Government Accountability Office Act of 2008''.

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of title 31, United States Code.

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

SEC. 2. PROVISIONS RELATING TO FUTURE ANNUAL PAY ADJUSTMENTS.

(a) IN GENERAL.—Section 732 is amended by adding at the end the following:

''(j)(1) For purposes of this subsection—

''(A) the term 'pay increase', as used with respect to an officer or employee in connection with a year, means the total increase in the rate of basic pay (expressed as a percentage) of such officer or employee, taking effect under section 731(b) and subsection (c)(3) in such year;

''(B) the term 'required minimum percentage', as used with respect to an officer or employee in connection with a year, means the percentage equal to the total increase in rates of basic pay (expressed as a percentage) taking effect under sections 5303 and 5304–5304a of title 5 in such year with respect to General Schedule positions within the pay locality (as defined by section 5302(5) of title 5) in which the position of such officer or employee is located;

''(C) the term 'covered officer or employee', as used with respect to a pay increase, means any individual—

''(i) who is an officer or employee of the Government Accountability Office, other than an officer or employee described in subparagraph (A), (B), or (C) of section 4(c)(1) of the Government Accountability Office Act of 2008, determined as of the effective date of such pay increase; and

''(ii) whose performance is at least at a satisfactory level, as determined by the Comptroller General under the provisions of subsection (c)(3) for purposes of the adjustment taking effect under such provisions in such year; and

''(D) the term 'nonpermanent merit pay' means any amount payable under section 731(b) which does not constitute basic pay.

''(2)(A) Notwithstanding any other provision of this chapter, if (disregarding this subsection) the pay increase that would otherwise take effect with respect to a covered officer or employee in a year would be less than the required minimum percentage for such officer or employee in such year, the Comptroller General shall provide for a further increase in the rate of basic pay of such officer or employee.

''(B) The further increase under this subsection—

''(i) shall be equal to the amount necessary to make up for the shortfall described in subparagraph (A); and

''(ii) shall take effect as of the same date as the pay increase otherwise taking effect in such year.

''(C) Nothing in this paragraph shall be considered to permit or require that a rate of basic pay be increased to an amount inconsistent with the limitation set forth in subsection (c)(2).

''(D) If (disregarding this subsection) the covered officer or employee would also have received any nonpermanent merit pay in such year, such nonpermanent merit pay shall be decreased by an amount equal to the portion of such officer's or employee's basic pay for such year which is attributable to the further increase described in subparagraph (A) (as determined by the Comptroller General), but to not less than zero.

''(3) Notwithstanding any other provision of this chapter, the effective date of any pay increase (within the meaning of paragraph (1)(A)) taking effect with respect to a covered officer or employee in any year shall be the same as the effective date of any adjustment taking effect under section 5303 of title 5 with respect to statutory pay systems (as defined by section 5302(1) of title 5) in such year.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to any pay increase (as defined by such amendment) taking effect on or after the date of the enactment of this Act.

SEC. 3. PAY ADJUSTMENT RELATING TO CERTAIN PREVIOUS YEARS.

(a) APPLICABILITY.—This section applies in the case of any individual who, as of the date of the enactment of this Act, is an officer or employee of the Government Accountability Office, excluding—

(1) an officer or employee described in subparagraph (A), (B), or (C) of section 4(c)(1); and

(2) an officer or employee who received both a 2.6 percent pay increase in January 2006 and a 2.4 percent pay increase in February 2007.

(b) PAY INCREASE DEFINED.—For purposes of this section, the term ''pay increase'', as used with respect to an officer or employee in connection with a year, means the total increase in the rate of basic pay (expressed as a percentage) of such officer or employee, taking effect under sections 731(b) and 732(c)(3) of title 31, United States Code, in such year.

(c) PROSPECTIVE EFFECT.—Effective with respect to pay for service performed in any pay period beginning after the end of the 6-month period beginning on the date of the enactment of this Act (or such earlier date as the Comptroller General may specify), the rate of basic pay for each individual to whom this section applies shall be determined as if such individual had received both a 2.6 percent pay increase for 2006 and a 2.4 percent pay increase for 2007, subject to subsection (e).

(d) LUMP-SUM PAYMENT.—Not later than 6 months after the date of the enactment of this Act, the Comptroller General shall, subject to the availability of appropriations, pay to each individual to whom this section applies a lump-sum payment. Subject to subsection (e), such lump-sum payment shall be equal to—

(1)(A) the total amount of basic pay that would have been paid to the individual, for service performed during the period beginning on the effective date of the pay increase for 2006 and ending on the day before the effective date of the pay adjustment under subsection (c) (or, if earlier, the date on which the individual retires or otherwise ceases to be employed by the Government Accountability Office), if such individual had received both a 2.6 percent pay increase for 2006 and a 2.4 percent pay increase for 2007, minus

(B) the total amount of basic pay that was in fact paid to the individual for service performed during the period described in subparagraph (A); and

(2) increased by 4 percent of the amount calculated under paragraph (1).

Eligibility for a lump-sum payment under this subsection shall be determined solely on the basis of whether an individual satisfies the requirements of subsection (a) (to be considered an individual to whom this section applies), and without regard to such individual's employment status as of any date following the date of the enactment of this Act or any other factor.

(e) CONDITIONS.—Nothing in subsection (c) or (d) shall be considered to permit or require—

(1) the payment of any rate (or portion of the lump-sum amount as calculated under subsection (d)(1) based on a rate) for any pay period, to the extent that such rate would be (or would have been) inconsistent with the limitation that applies (or that applied) with respect to such pay period under section 732(c)(2) of title 31, United States Code; or

(2) the payment of any rate or amount based on the pay increase for 2006 or 2007 (as the case may be), if—

(A) the performance of the officer or employee involved was not at a satisfactory level, as determined by the Comptroller General under paragraph (3) of section 732(c) of such title 31 for purposes of the adjustment under such paragraph for that year; or

(B) the individual involved was not an officer or employee of the Government Accountability Office on the date as of which that increase took effect.

As used in paragraph (2)(A), the term ''satisfactory'' includes a rating of ''meets expectations'' (within the meaning of the performance appraisal system used for purposes of the adjustment under section 732(c)(3) of such title 31 for the year involved).

(f) RETIREMENT.—

(1) IN GENERAL.—The portion of the lump-sum payment paid under subsection (d) to an officer or employee as calculated under subsection (d)(1) shall, for purposes of any determination of the average pay (as defined by section 8331 or 8401 of title 5, United States Code) which is used to compute an annuity under subchapter III of chapter 83 or chapter 84 of such title—

(A) be treated as basic pay (as defined by section 8331 or 8401 of such title); and

(B) be allocated to the biweekly pay periods covered by subsection (d).

(2) CONTRIBUTIONS TO CIVIL SERVICE RETIREMENT AND DISABILITY RETIREMENT FUND.—

(A) EMPLOYEE CONTRIBUTIONS.—The Government Accountability Office shall deduct and withhold from the lump-sum payment paid to each employee under subsection (d) an amount equal to the difference between—

(i) employee contributions that would have been deducted and withheld from pay under section 8334 or 8422 of title 5, United States Code, if the portion of the lump-sum payment as calculated under subsection (d)(1) had been additionally paid as basic pay during the period described under subsection (d)(1) of this section; and

(ii) employee contributions that were actually deducted and withheld from pay under section 8334 or 8422 of title 5, United States Code, during that period.

(B) AGENCY CONTRIBUTIONS AND PAYMENT TO THE FUND.—Not later than 9 months after the Government Accountability Office makes the lump-sum payments under subsection (d), the Government Accountability Office shall pay into the Civil Service Retirement and Disability Fund—

(i) the amount of each deduction and withholding under subparagraph (A); and

(ii) an amount for applicable agency contributions under section 8334 or 8423 of title 5, United states Code, based on payments made under clause (i).

(g) EXCLUSIVE REMEDY.—This section constitutes the exclusive remedy that any individuals to whom this section applies (as described in subsection (a)) have for any claim that they are owed any monies denied to them in the form of a pay increase for 2006 or 2007 under section 732(c)(3) of title 31, United States Code, or any other law. Notwithstanding any other provision of law, no court or administrative body, including the Government Accountability Office Personnel Appeals Board, shall have jurisdiction to entertain any civil action or other civil proceeding based on the claim of such individuals that they were due money in the form of a pay increase for 2006 or 2007 pursuant to such section 732(c)(3) or any other law.

SEC. 4. LUMP-SUM PAYMENT FOR CERTAIN PERFORMANCE-BASED COMPENSATION.

(a) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act, the Comptroller General shall, subject to the availability of appropriations, pay to each qualified individual a lump-sum payment equal to the amount of performance-based compensation such individual was denied for 2006, as determined under subsection (b).

(b) AMOUNT.—The amount payable to a qualified individual under this section shall be equal to—

(1) the total amount of performance-based compensation such individual would have earned for 2006 (determined by applying the Government Accountability Office's performance-based compensation system under GAO Orders 2540.3 and 2540.4, as in effect in 2006) if such individual had not had a salary equal to or greater than the maximum for such individual's band (as further described in subsection (c)(2)), less

(2) the total amount of performance-based compensation such individual was in fact granted, in January 2006, for that year.

(c) QUALIFIED INDIVIDUAL.—For purposes of this section, the term ''qualified individual'' means an individual who—

(1) as of the date of the enactment of this Act, is an officer or employee of the Government Accountability Office, excluding—

(A) an individual holding a position subject to section 732a or 733 of title 31, United States Code (disregarding section 732a(b) and 733(c) of such title);

(B) a Federal Wage System employee; and

(C) an individual participating in a development program under which such individual receives performance appraisals, and is eligible to receive permanent merit pay increases, more than once a year; and

(2) as of January 22, 2006, was a Band I staff member with a salary above the Band I cap, a Band IIA staff member with a salary above the Band IIA cap, or an administrative professional or support staff member with a salary above the cap for that individual's pay band (determined in accordance with the orders cited in subsection (b)(1)).

(d) EXCLUSIVE REMEDY.—This section constitutes the exclusive remedy that any officers and employees (as described in subsection (c)) have for any claim that they are owed any monies denied to them in the form of merit pay for 2006 under section 731(b) of title 31, United States Code, or any other law. Notwithstanding any other provision of law, no court or administrative body in the United States, including the Government Accountability Office Personnel Appeals Board, shall have jurisdiction to entertain any civil action or other civil proceeding based on the claim of such officers or employees that they were due money in the form of merit pay for 2006 pursuant to such section 731(b) or any other law.

(e) DEFINITIONS.—For purposes of this section—

(1) the term ''performance-based compensation'' has the meaning given such term under the Government Accountability Office's performance-based compensation system under GAO Orders 2540.3 and 2540.4, as in effect in 2006; and

(2) the term ''permanent merit pay increase'' means an increase under section 731(b) of title 31, United States Code, in a rate of basic pay.

SEC. 5. INSPECTOR GENERAL.

(a) IN GENERAL.—Subchapter I of chapter 7 is amended by adding at the end the following:

''§ 705. Inspector General for the Government Accountability Office

''(a) ESTABLISHMENT OF OFFICE.—There is established an Office of the Inspector General in the Government Accountability Office, to—

''(1) conduct and supervise audits consistent with generally accepted government auditing standards and investigations relating to the Government Accountability Office;

''(2) provide leadership and coordination and recommend policies, to promote economy, efficiency, and effectiveness in the Government Accountability Office; and

''(3) keep the Comptroller General and Congress fully and currently informed concerning fraud and other serious problems, abuses, and deficiencies relating to the administration of programs and operations of the Government Accountability Office.

''(b) APPOINTMENT, SUPERVISION, AND REMOVAL.—

''(1) The Office of the Inspector General shall be headed by an Inspector General, who shall be appointed by the Comptroller General without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations. The Inspector General shall report to, and be under the general supervision of, the Comptroller General.

''(2) The Inspector General may be removed from office by the Comptroller General. The Comptroller General shall, promptly upon such removal, communicate in writing the reasons for any such removal to each House of Congress.

''(3) The Inspector General shall be paid at an annual rate of pay equal to $5,000 less than the annual rate of pay of the Comptroller General, and may not receive any cash award or bonus, including any award under chapter 45 of title 5.

''(c) AUTHORITY OF INSPECTOR GENERAL.—In addition to the authority otherwise provided by this section, the Inspector General, in carrying out the provisions of this section, may—

''(1) have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material that relate to programs and operations of the Government Accountability Office;

''(2) make such investigations and reports relating to the administration of the programs and operations of the Government Accountability Office as are, in the judgment of the Inspector General, necessary or desirable;

''(3) request such documents and information as may be necessary for carrying out the duties and responsibilities provided by this section from any Federal agency;

''(4) in the performance of the functions assigned by this section, obtain all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence from a person not in the United States Government or from a Federal agency, to the same extent and in the same manner as the Comptroller General under the authority and procedures available to the Comptroller General in section 716 of this title;

''(5) administer to or take from any person an oath, affirmation, or affidavit, whenever necessary in the performance of the functions assigned by this section, which oath, affirmation, or affidavit when administered or taken by or before an employee of the Office of Inspector General designated by the Inspector General shall have the same force and effect as if administered or taken by or before an officer having a seal;

''(6) have direct and prompt access to the Comptroller General when necessary for any purpose pertaining to the performance of functions and responsibilities under this section;

''(7) report expeditiously to the Attorney General whenever the Inspector General has reasonable grounds to believe there has been a violation of Federal criminal law; and

''(8) provide copies of all reports to the Audit Advisory Committee of the Government Accountability Office and provide such

additional information in connection with such reports as is requested by the Committee.

''(d) COMPLAINTS BY EMPLOYEES.—

''(1) The Inspector General—

''(A) subject to subparagraph (B), may receive, review, and investigate, as the Inspector General considers appropriate, complaints or information from an employee of the Government Accountability Office concerning the possible existence of an activity constituting a violation of any law, rule, or regulation, mismanagement, or a gross waste of funds; and

''(B) shall refer complaints or information concerning violations of personnel law, rules, or regulations to established investigative and adjudicative entities of the Government Accountability Office.

''(2) The Inspector General shall not, after receipt of a complaint or information from an employee, disclose the identity of the employee without the consent of the employee, unless the Inspector General determines such disclosure is unavoidable during the course of the investigation.

''(3) Any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, take or threaten to take any action against any employee as a reprisal for making a complaint or disclosing information to the Inspector General, unless the complaint was made or the information disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.

''(e) SEMIANNUAL REPORTS.—(1) The Inspector General shall submit semiannual reports summarizing the activities of the Office of the Inspector General to the Comptroller General. Such reports shall include, but need not be limited to—

''(A) a summary of each significant report made during the reporting period, including a description of significant problems, abuses, and deficiencies disclosed by such report;

''(B) a description of the recommendations for corrective action made with respect to significant problems, abuses, or deficiencies described pursuant to subparagraph (A);

''(C) a summary of the progress made in implementing such corrective action described pursuant to subparagraph (B); and

''(D) information concerning any disagreement the Comptroller General has with a recommendation of the Inspector General.

''(2) The Comptroller General shall transmit the semiannual reports of the Inspector General, together with any comments the Comptroller General considers appropriate, to Congress within 30 days after receipt of such reports.

''(f) INDEPENDENCE IN CARRYING OUT DUTIES AND RESPONSIBILITIES.—The Comptroller General may not prevent or prohibit the Inspector General from carrying out any of the duties or responsibilities of the Inspector General under this section.

''(g) AUTHORITY FOR STAFF.—

''(1) IN GENERAL.—The Inspector General shall select, appoint, and employ (including fixing and adjusting the rates of pay of) such personnel as may be necessary to carry out this section consistent with the provisions of this title governing selections, appointments, and employment (including the fixing and adjusting the rates of pay) in the Government Accountability Office. Such personnel shall be appointed, promoted, and assigned only on the basis of merit and fitness, but without regard to those provisions of title 5 governing appointments and other personnel actions in the competitive service, except that no personnel of the Office may be paid at an annual rate greater than $1,000 less than the annual rate of pay of the Inspector General.

''(2) EXPERTS AND CONSULTANTS.—The Inspector General may procure temporary and intermittent services under section 3109 of title 5 at rates not to exceed the daily equivalent of the annual rate of basic pay for level IV of the Executive Schedule under section 5315 of such title.

''(3) INDEPENDENCE IN APPOINTING STAFF.—No individual may carry out any of the duties or responsibilities of the Office of the Inspector General unless the individual is appointed by the Inspector General, or provides services obtained by the Inspector General, pursuant to this paragraph.

''(4) LIMITATION ON PROGRAM RESPONSIBILITIES.—The Inspector General and any individual carrying out any of the duties or responsibilities of the Office of the Inspector General are prohibited from performing any program responsibilities.

''(h) OFFICE SPACE.—The Comptroller General shall provide the Office of the Inspector General—

''(1) appropriate and adequate office space;

''(2) such equipment, office supplies, and communications facilities and services as may be necessary for the operation of the Office of the Inspector General;

''(3) necessary maintenance services for such office space, equipment, office supplies, and communications facilities; and

''(4) equipment and facilities located in such office space.

''(i) DEFINITION.—As used in this section, the term 'Federal agency' means a department, agency, instrumentality, or unit thereof, of the Federal Government.''.

(b) INCUMBENT.—The individual who serves in the position of Inspector General of the Government Accountability Office on the date of the enactment of this Act shall continue to serve in such position subject to removal in accordance with the amendments made by this section.

(c) CLERICAL AMENDMENT.—The table of sections for chapter 7 is amended by inserting after the item relating to section 704 the following:

''705. Inspector General for the Government Accountability Office.''.

SEC. 6. REIMBURSEMENT OF AUDIT COSTS.

(a) IN GENERAL.—Section 3521 is amended by adding at the end the following:

''(i)(1) If the Government Accountability Office audits any financial statement or related schedule which is prepared under section 3515 by an executive agency (or component thereof) for a fiscal year beginning on or after October 1, 2009, such executive agency (or component) shall reimburse the Government Accountability Office for the cost of such audit, if the Government Accountability Office audited the statement or schedule of such executive agency (or component) for fiscal year 2007.

''(2) Any executive agency (or component thereof) that prepares a financial statement under section 3515 for a fiscal year beginning on or after October 1, 2009, and that requests, with the concurrence of the Inspector General of such agency, the Government Accountability Office to conduct the audit of such statement or any related schedule required by section 3521 may reimburse the Government Accountability Office for the cost of such audit.

''(3) For the audits conducted under paragraphs (1) and (2), the Government Accountability Office shall consult prior to the initiation of the audit with the relevant executive agency (or component) and the Inspector General of such agency on the scope, terms, and cost of such audit.

''(4) Any reimbursement under paragraph (1) or (2) shall be deposited to a special account in the Treasury and shall be available to the Government Accountability Office for such purposes and in such amounts as are specified in annual appropriations Acts.''.

(b) CONFORMING AMENDMENT.—Section 1401 of title I of Public Law 108–83 (31 U.S.C. 3523 note) is repealed, effective October 1, 2010.

SEC. 7. FINANCIAL DISCLOSURE REQUIREMENTS.

Section 109(13)(B) of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended—

(1) in clause (i), by inserting ''(except any officer or employee of the Government Accountability Office)'' after ''legislative branch'', and by striking ''and'' at the end;

(2) by redesignating clause (ii) as clause (iii); and

(3) by inserting after clause (i) the following:

''(ii) each officer or employee of the Government Accountability Office who, for at least 60 consecutive days, occupies a position for which the rate of basic pay, minus the amount of locality pay that would have been authorized under section 5304 of title 5, United States Code (had the officer or employee been paid under the General Schedule) for the locality within which the position of such officer or employee is located (as determined by the Comptroller General), is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule; and''.

SEC. 8. HIGHEST BASIC PAY RATE.

Section 732(c)(2) is amended by striking ''highest basic rate for GS–15;'' and inserting ''rate for level III of the Executive Level, except that the total amount of cash compensation in any year shall be subject to the limitations provided under section 5307(a)(1) of title 5;''.

SEC. 9. ADDITIONAL AUTHORITIES.

(a) IN GENERAL.—Section 731 is amended—

(1) by repealing subsection (d);

(2) in subsection (e)—

(A) in the matter before paragraph (1), by striking ''maximum daily rate for GS–18 under section 5332 of such title'' and inserting ''daily rate for level IV of the Executive Schedule''; and

(B) by striking ''more than—'' and all that follows and inserting the following: ''more than 20 experts and consultants may be procured for terms of not more than 3 years, but which shall be renewable.''; and

(3) by adding at the end the following:

''(j) Funds appropriated to the Government Accountability Office for salaries and expenses are available for meals and other related reasonable expenses incurred in connection with recruitment.''.

(b) CONFORMING AMENDMENTS.—(1) Section 732a(b) is amended by striking ''section 731(d), (e)(1), or (e)(2)'' and inserting ''paragraph (1) or (2) of section 731(e)''.

(2) Section 733(c) is amended by striking ''(d),''.

(3) Section 735(a) is amended by striking ''731(c)–(e),'' and inserting ''731(c) and (e),''.

GOVERNMENT ACCOUNTABILITY OFFICE ACT OF 2008

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 901, H.R. 5683.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (H.R. 5683) to make certain reforms with respect to the Government Accountability Office, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Homeland Security and Governmental Affairs, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italics.)

H.R. 5683

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Government Accountability Office Act of 2008''.

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of title 31, United States Code.

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

SEC. 2. PROVISIONS RELATING TO FUTURE ANNUAL PAY ADJUSTMENTS.

(a) IN GENERAL.—Section 732 is amended by adding at the end the following:

''(j)(1) For purposes of this subsection—

''(A) the term 'pay increase', as used with respect to an officer or employee in connection with a year, means the total increase in the rate of basic pay (expressed as a percentage) of such officer or employee, taking effect under section 731(b) and subsection (c)(3) in such year;

''(B) the term 'required minimum percentage', as used with respect to an officer or employee in connection with a year, means the percentage equal to the total increase in rates of basic pay (expressed as a percentage) taking effect under sections 5303 and 5304–5304a of title 5 in such year with respect to General Schedule positions within the pay locality (as defined by section 5302(5) of title 5) in which the position of such officer or employee is located;

''(C) the term 'covered officer or employee', as used with respect to a pay increase, means any individual—

''(i) who is an officer or employee of the Government Accountability Office, other than an officer or employee described in subparagraph (A), (B), or (C) of section 4(c)(1) of the Government Accountability Office Act of 2008, determined as of the effective date of such pay increase; and

''(ii) whose performance is at least at a satisfactory level, as determined by the Comptroller General under the provisions of subsection (c)(3) for purposes of the adjustment taking effect under such provisions in such year; and

''(D) the term 'nonpermanent merit pay' means any amount payable under section 731(b) which does not constitute basic pay.

''(2)(A) Notwithstanding any other provision of this chapter, if (disregarding this subsection) the pay increase that would otherwise take effect with respect to a covered officer or employee in a year would be less than the required minimum percentage for such officer or employee in such year, the Comptroller General shall provide for a further increase in the rate of basic pay of such officer or employee.

''(B) The further increase under this subsection—

''(i) shall be equal to the amount necessary to make up for the shortfall described in subparagraph (A); and

''(ii) shall take effect as of the same date as the pay increase otherwise taking effect in such year.

''(C) Nothing in this paragraph shall be considered to permit or require that a rate of basic pay be increased to an amount inconsistent with the limitation set forth in subsection (c)(2).

''(D) If (disregarding this subsection) the covered officer or employee would also have received any nonpermanent merit pay in such year, such nonpermanent merit pay shall be decreased by an amount equal to the portion of such officer's or employee's basic pay for such year which is attributable to the further increase described in subparagraph (A) (as determined by the Comptroller General), but to not less than zero.

''(3) Notwithstanding any other provision of this chapter, the effective date of any pay increase (within the meaning of paragraph (1)(A)) taking effect with respect to a covered officer or employee in any year shall be the same as the effective date of any adjustment taking effect under section 5303 of title 5 with respect to statutory pay systems (as defined by section 5302(1) of title 5) in such year.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to any pay increase (as defined by such amendment) taking effect on or after the date of the enactment of this Act.

SEC. 3. PAY ADJUSTMENT RELATING TO CERTAIN PREVIOUS YEARS.

(a) APPLICABILITY.—This section applies in the case of any individual who, as of the date of the enactment of this Act, is an officer or employee of the Government Accountability Office, excluding—

(1) an officer or employee described in subparagraph (A), (B), or (C) of section 4(c)(1); and

(2) an officer or employee who received both a 2.6 percent pay increase in January 2006 and a 2.4 percent pay increase in February 2007.

(b) PAY INCREASE DEFINED.—For purposes of this section, the term ''pay increase'', as used with respect to an officer or employee in connection with a year, means the total increase in the rate of basic pay (expressed as a percentage) of such officer or employee, taking effect under sections 731(b) and 732(c)(3) of title 31, United States Code, in such year.

(c) PROSPECTIVE EFFECT.—Effective with respect to pay for service performed in any pay period beginning after the end of the 6-month period beginning on the date of the enactment of this Act (or such earlier date as the Comptroller General may specify), the rate of basic pay for each individual to whom this section applies shall be determined as if such individual had received both a 2.6 percent pay increase for 2006 and a 2.4 percent pay increase for 2007, subject to subsection (e).

(d) LUMP-SUM PAYMENT.—Not later than 6 months after the date of the enactment of this Act, the Comptroller General shall, subject to the availability of appropriations, pay to each individual to whom this section applies a lump-sum payment. **[Subject to subsection** (e),**]**Subject to subsections (e) and (f)(2), such lump-sum payment shall be equal to—

(1) the total amount of basic pay that would have been paid to the individual, for service performed during the period beginning on the effective date of the pay increase for 2006 and ending on the day before the effective date of the pay adjustment under subsection (c) (or, if earlier, the date on which the individual retires or otherwise ceases to be employed by the Government Accountability Office), if such individual had received both a 2.6 percent pay increase for 2006 and a 2.4 percent pay increase for 2007, minus

(2) the total amount of basic pay that was in fact paid to the individual for service performed during the period described in paragraph (1).

Eligibility for a lump-sum payment under this subsection shall be determined solely on the basis of whether an individual satisfies the requirements of subsection (a) (to be considered an individual to whom this section applies), and without regard to such individual's employment status as of any date following the date of the enactment of this Act or any other factor.

(e) CONDITIONS.—Nothing in subsection (c) or (d) shall be considered to permit or require—

(1) the payment of any rate (or lump-sum amount based on a rate) for any pay period, to the extent that such rate would be (or would have been) inconsistent with the limitation that applies (or that applied) with respect to such pay period under section 732(c)(2) of title 31, United States Code; or

(2) the payment of any rate or amount based on the pay increase for 2006 or 2007 (as the case may be), if—

(A) the performance of the officer or employee involved was not at a satisfactory level, as determined by the Comptroller General under paragraph (3) of section 732(c) of such title 31 for purposes of the adjustment under such paragraph for that year; or

(B) the individual involved was not an officer or employee of the Government Accountability Office on the date as of which that increase took effect.

As used in paragraph (2)(A), the term ''satisfactory'' includes a rating of ''meets expectations'' (within the meaning of the performance appraisal system used for purposes of the adjustment under section 732(c)(3) of such title 31 for the year involved).

(f) RETIREMENT.—

(1) IN GENERAL.—The lump-sum payment paid under subsection (d) to an officer or employee shall, for purposes of any determination of the average pay (as defined by section 8331 or 8401 of title 5, United States Code) which is used to compute an annuity under subchapter III of chapter 83 or chapter 84 of such title—

(A) be treated as basic pay (as defined by section 8331 or 8401 of such title); and

(B) be allocated to the biweekly pay periods covered by subsection (d).

[(2) CONTRIBUTIONS.—Notwithstanding section 8334, 8422, 8423, or any other provision of title 5, United States Code, no employee or agency contribution shall be required for purposes of this subsection.**]**

(2) CONTRIBUTIONS TO CIVIL SERVICE RETIREMENT AND DISABILITY RETIREMENT FUND.—

(A) EMPLOYEE CONTRIBUTIONS.—The Government Accountability Office shall deduct and withhold from the lump-sum payment paid to each employee under subsection (d)—

(i) an amount equal to the difference between—

(I) employee contributions that would have been deducted and withheld from pay under section 8334 or 8422 of title 5, United States Code, if such lump-sum payment had been additionally paid as basic pay during the period described under subsection (d)(1) of this section; and

(II) employee contributions that were actually deducted and withheld from pay under section 8334 or 8422 of title 5, United States Code, during that period; and

(ii) interest as prescribed under section 8334(e) of title 5, United States Code, based on the amount determined under clause(i).

(B) AGENCY CONTRIBUTIONS AND PAYMENT TO THE FUND.—

(i) IN GENERAL.—Not later than 9 months after the Government Accountability Office makes the lump-sum payments under subsection (d), the Government Accountability Office shall pay into the Civil Service Retirement and Disability Fund—

(I) the amount of each deduction and withholding under subparagraph (A); and

(II) an amount for applicable agency contributions under section 8334 or 8423 of title 5, United states Code, based on payments made under subclause (I).

(ii) SOURCE.—Amounts paid under clause (i)(II) shall be contributed from the appropriation or fund used to pay the employee.

(C) REGULATIONS.—The Office of Personnel Management may prescribe regulations to carry out this paragraph.

(g) EXCLUSIVE REMEDY.—This section constitutes the exclusive remedy that any individuals to whom this section applies (as described in subsection (a)) have for any claim that they are owed any monies denied to them in the form of a pay increase for 2006 or 2007 under section 732(c)(3) of title 31, United States Code, or any other law. Notwithstanding any other provision of law, no court or administrative body, including the Government Accountability Office Personnel Appeals Board, shall have jurisdiction to entertain any civil action or other civil proceeding based on the claim of such individuals that they were due money in the form of a pay increase for 2006 or 2007 pursuant to such section 732(c)(3) or any other law.

SEC. 4. LUMP-SUM PAYMENT FOR CERTAIN PERFORMANCE-BASED COMPENSATION.

(a) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act, the Comptroller General shall, subject to the availability of appropriations, pay to each qualified individual a lump-sum payment equal to the amount of performance-based compensation such individual was denied for 2006, as determined under subsection (b).

(b) AMOUNT.—The amount payable to a qualified individual under this section shall be equal to—

(1) the total amount of performance-based compensation such individual would have earned for 2006 (determined by applying the Government Accountability Office's performance-based compensation system under GAO Orders 2540.3 and 2540.4, as in effect in 2006) if such individual had not had a salary equal to or greater than the maximum for such individual's band (as further described in subsection (c)(2)), less

(2) the total amount of performance-based compensation such individual was in fact granted, in January 2006, for that year.

(c) QUALIFIED INDIVIDUAL.—For purposes of this section, the term ''qualified individual'' means an individual who—

(1) as of the date of the enactment of this Act, is an officer or employee of the Government Accountability Office, excluding—

(A) an individual holding a position subject to section 732a or 733 of title 31, United States Code (disregarding section 732a(b) and 733(c) of such title);

(B) a Federal Wage System employee; and

(C) an individual participating in a development program under which such individual receives performance appraisals, and is eligible to receive permanent merit pay increases, more than once a year; and

(2) as of January 22, 2006, was a Band I staff member with a salary above the Band I cap, a Band IIA staff member with a salary above the Band IIA cap, or an administrative professional or support staff member with a salary above the cap for that individual's pay band (determined in accordance with the orders cited in subsection (b)(1)).

(d) EXCLUSIVE REMEDY.—This section constitutes the exclusive remedy that any officers and employees (as described in subsection (c)) have for any claim that they are owed any monies denied to them in the form of merit pay for 2006 under section 731(b) of title 31, United States Code, or any other law. Notwithstanding any other provision of law, no court or administrative body in the United States, including the Government Accountability Office Personnel Appeals Board, shall have jurisdiction to entertain any civil action or other civil proceeding based on the claim of such officers or employees that they were due money in the form of merit pay for 2006 pursuant to such section 731(b) or any other law.

(e) DEFINITIONS.—For purposes of this section—

(1) the term ''performance-based compensation'' has the meaning given such term under the Government Accountability Office's performance-based compensation system under GAO Orders 2540.3 and 2540.4, as in effect in 2006; and

(2) the term ''permanent merit pay increase'' means an increase under section 731(b) of title 31, United States Code, in a rate of basic pay.

SEC. 5. INSPECTOR GENERAL.

(a) IN GENERAL.—Subchapter I of chapter 7 is amended by adding at the end the following:

''§ 705. Inspector General for the Government Accountability Office

''(a) ESTABLISHMENT OF OFFICE.—There is established an Office of the Inspector General in the Government Accountability Office, to—

''(1) conduct and supervise audits consistent with generally accepted government auditing standards and investigations relating to the Government Accountability Office;

''(2) provide leadership and coordination and recommend policies, to promote economy, efficiency, and effectiveness in the Government Accountability Office; and

''(3) keep the Comptroller General and Congress fully and currently informed concerning fraud and other serious problems, abuses, and deficiencies relating to the administration of programs and operations of the Government Accountability Office.

''(b) APPOINTMENT, SUPERVISION, AND REMOVAL.—

''(1) The Office of the Inspector General shall be headed by an Inspector General, who shall be appointed by the Comptroller General without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations. The Inspector General shall report to, and be under the general supervision of, the Comptroller General.

''(2) The Inspector General may be removed from office by the Comptroller General. The Comptroller General shall, promptly upon such removal, communicate in writing the reasons for any such removal to each House of Congress.

''(3) The Inspector General shall be paid at an annual rate of pay equal to $5,000 less than the annual rate of pay of the Comptroller General, and may not receive any cash award or bonus, including any award under chapter 45 of title 5.

''(c) AUTHORITY OF INSPECTOR GENERAL.—In addition to the authority otherwise provided by this section, the Inspector General, in carrying out the provisions of this section, may—

''(1) have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material that relate to programs and operations of the Government Accountability Office;

''(2) make such investigations and reports relating to the administration of the programs and operations of the Government Accountability Office as are, in the judgment of the Inspector General, necessary or desirable;

''(3) request such documents and information as may be necessary for carrying out the duties and responsibilities provided by this section from any Federal agency;

''(4) in the performance of the functions assigned by this section, obtain all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence from a person not in the United States Government or from a Federal agency, to the same extent and in the same manner as the Comptroller General under the authority and procedures available to the Comptroller General in section 716 of this title;

''(5) administer to or take from any person an oath, affirmation, or affidavit, whenever necessary in the performance of the functions assigned by this section, which oath, affirmation, or affidavit when administered or taken by or before an employee of the Office of Inspector General designated by the Inspector General shall have the same force and effect as if administered or taken by or before an officer having a seal;

''(6) have direct and prompt access to the Comptroller General when necessary for any purpose pertaining to the performance of functions and responsibilities under this section;

''(7) report expeditiously to the Attorney General whenever the Inspector General has reasonable grounds to believe there has been a violation of Federal criminal law; and

''(8) provide copies of all reports to the Audit Advisory Committee of the Government Accountability Office and provide such additional information in connection with such reports as is requested by the Committee.

''(d) COMPLAINTS BY EMPLOYEES.—

''(1) The Inspector General—

''(A) subject to subparagraph (B), may receive, review, and investigate, as the Inspector General considers appropriate, complaints or information from an employee of the Government Accountability Office concerning the possible existence of an activity constituting a violation of any law, rule, or regulation, mismanagement, or a gross waste of funds; and

''(B) shall refer complaints or information concerning violations of personnel law, rules, or regulations to established investigative and adjudicative entities of the Government Accountability Office.

''(2) The Inspector General shall not, after receipt of a complaint or information from an employee, disclose the identity of the employee without the consent of the employee, unless the Inspector General determines such disclosure is unavoidable during the course of the investigation.

''(3) Any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, take or threaten to take any action against any employee as a reprisal for making a complaint or disclosing information to the Inspector General, unless the complaint was made or the information disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.

''(e) SEMIANNUAL REPORTS.—(1) The Inspector General shall submit semiannual reports summarizing the activities of the Office of the Inspector General to the Comptroller

General. Such reports shall include, but need not be limited to—

''(A) a summary of each significant report made during the reporting period, including a description of significant problems, abuses, and deficiencies disclosed by such report;

''(B) a description of the recommendations for corrective action made with respect to significant problems, abuses, or deficiencies described pursuant to subparagraph (A);

''(C) a summary of the progress made in implementing such corrective action described pursuant to subparagraph (B); and

''(D) information concerning any disagreement the Comptroller General has with a recommendation of the Inspector General.

''(2) The Comptroller General shall transmit the semiannual reports of the Inspector General, together with any comments the Comptroller General considers appropriate, to Congress within 30 days after receipt of such reports.

''(f) INDEPENDENCE IN CARRYING OUT DUTIES AND RESPONSIBILITIES.—The Comptroller General may not prevent or prohibit the Inspector General from carrying out any of the duties or responsibilities of the Inspector General under this section.

''(g) AUTHORITY FOR STAFF.—

''(1) IN GENERAL.—The Inspector General shall select, appoint, and employ such personnel as may be necessary to carry out this section consistent with the provisions of this title governing selections, appointments, and employment in the Government Accountability Office. Such personnel shall be appointed, promoted, and assigned only on the basis of merit and fitness, but without regard to those provisions of title 5 governing appointments and other personnel actions in the competitive service, except that no personnel of the Office may be paid at an annual rate greater than $1,000 less than the annual rate of pay of the Inspector General.

''(2) EXPERTS AND CONSULTANTS.—The Inspector General may procure temporary and intermittent services under section 3109 of title 5 at rates not to exceed the daily equivalent of the annual rate of basic pay for level V of the Executive Schedule under section 5315 of such title.

''(3) INDEPENDENCE IN APPOINTING STAFF.—No individual may carry out any of the duties or responsibilities of the Office of the Inspector General unless the individual is appointed by the Inspector General, or provides services obtained by the Inspector General, pursuant to this paragraph.

''(4) LIMITATION ON PROGRAM RESPONSIBILITIES.—The Inspector General and any individual carrying out any of the duties or responsibilities of the Office of the Inspector General are prohibited from performing any program responsibilities.

''(h) OFFICE SPACE.—The Comptroller General shall provide the Office of the Inspector General—

''(1) appropriate and adequate office space;

''(2) such equipment, office supplies, and communications facilities and services as may be necessary for the operation of the Office of the Inspector General;

''(3) necessary maintenance services for such office space, equipment, office supplies, and communications facilities; and

''(4) equipment and facilities located in such office space.

''(i) DEFINITION.—As used in this section, the term 'Federal agency' means a department, agency, instrumentality, or unit thereof, of the Federal Government.''.

(b) INCUMBENT.—The individual who serves in the position of Inspector General of the Government Accountability Office on the date of the enactment of this Act shall continue to serve in such position subject to removal in accordance with the amendments made by this section.

(c) CLERICAL AMENDMENT.—The table of sections for chapter 7 is amended by inserting after the item relating to section 704 the following:

''705. Inspector General for the Government Accountability Office.''.

[SEC. 6. REIMBURSEMENT OF AUDIT COSTS.

[(a) IN GENERAL.—Section 3521 is amended by adding at the end the following:

[''(i)(1) If the Government Accountability Office audits any financial statement or related schedule which is prepared under section 3515 by an executive agency (or component thereof) for a fiscal year beginning on or after October 1, 2009, such executive agency (or component) shall reimburse the Government Accountability Office for the cost of such audit if—

[''(A) the statement or schedule audited is that of an executive agency (or component) which submitted a financial statement or related schedule under section 3515 for fiscal year 2007 which was audited by the Government Accountability Office; or

[''(B) the reason for the audit (described in the matter before subparagraph (A)) is because of the Comptroller General's determination of materiality to the statements required under section 331(e).

[''(2) Any executive agency (or component thereof) that prepares a financial statement under section 3515 for a fiscal year beginning on or after October 1, 2009, and that requests the Government Accountability Office to audit such statement or any related schedule may reimburse the Government Accountability Office for the cost of such audit.

[''(3) Any reimbursement under paragraph (1) or (2) shall be deposited to a special account in the Treasury and shall be available to the Government Accountability Office for such purposes and in such amounts as are specified in annual appropriations Acts.''.

[(b) CONFORMING AMENDMENT.—Section 1401 of title I of Public Law 108–83 (31 U.S.C. 3523 note) is repealed, effective October 1, 2010.]

SEC. [7.]*6.* FINANCIAL DISCLOSURE REQUIREMENTS.

Section 109(13)(B) of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended—

(1) in clause (i), by inserting ''(except any officer or employee of the Government Accountability Office)'' after ''legislative branch'', and by striking ''and'' at the end;

(2) by redesignating clause (ii) as clause (iii); and

(3) by inserting after clause (i) the following:

''(ii) each officer or employee of the Government Accountability Office who, for at least 60 consecutive days, occupies a position for which the rate of basic pay, minus the amount of locality pay that would have been authorized under section 5304 of title 5, United States Code (had the officer or employee been paid under the General Schedule) for the locality within which the position of such officer or employee is located (as determined by the Comptroller General), is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule; and''.

SEC. [8.]*7.* HIGHEST BASIC PAY RATE.

Section 732(c)(2) is amended by striking ''highest basic rate for GS–15;'' and inserting ''rate for level III of the Executive Level, except that the total amount of cash compensation in any year shall be subject to the limitations provided under section 5307(a)(1) of title 5;''.

SEC. [9.]*8.* ADDITIONAL AUTHORITIES.

(a) IN GENERAL.—Section 731 is amended—

(1) by repealing subsection (d);

(2) in subsection (e)—

(A) in the matter before paragraph (1), by striking ''maximum daily rate for GS–18 under section 5332 of such title'' and inserting ''daily rate for level IV of the Executive Schedule''; and

(B) by striking ''more than—'' and all that follows and inserting the following: ''more than 20 experts and consultants may be procured for terms of not more than 3 years, but which shall be renewable.''; and

(3) by adding at the end the following:

''(j) Funds appropriated to the Government Accountability Office for salaries and expenses are available for meals and other related reasonable expenses incurred in connection with recruitment.''.

(b) CONFORMING AMENDMENTS.—(1) Section 732a(b) is amended by striking ''section 731(d), (e)(1), or (e)(2)'' and inserting ''paragraph (1) or (2) of section 731(e)''.

(2) Section 733(c) is amended by striking ''(d),''.

(3) Section 735(a) is amended by striking ''731(c)–(e),'' and inserting ''731(c) and (e),''.

Mr. REID. Mr. President, I ask unanimous consent that the committee amendments be withdrawn; the Lieberman substitute, which is at the desk, be agreed to; the bill, as amended, be read the third time, and passed; the motion to reconsider be laid upon the table, with no intervening action or debate; and that any statements related to this bill be printed in the RECORD.

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

The Committee amendments were withdrawn.

The amendment (No. 5264) was agreed to.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

The amendment was ordered to be engrossed and the bill to be read the third time.

The bill (H.R. 5683), as amended, was read the third time, and passed.

EXECUTIVE SESSION

EXECUTIVE CALENDAR AND NOMINATIONS DISCHARGED

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Nos. 525, 645, 691, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 737, 738, 741, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, and all nominations on the Secretary's desk relating to the Air Force, Army, and Navy; that the HELP Committee be discharged of the following nominations: PN1816, the nomination of Holly A. Kuzmich; PN1817, the nomination of Christopher Marston; and PN1454 and PN1548, routine U.S. Public Health Services Commissioned Corps; that the Commerce Committee be discharged of the following nominations: PN1858, Stephen West, and PN1859, Elisa Garrity; that the Environment and Public Works Committee be discharged of PN1872, the nomination of Thomas J. Madison; that the Senate then proceed to the nominations, en bloc, the nominations be confirmed, en bloc, and the motions to reconsider be laid upon the table, en bloc.

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

The nominations were considered and confirmed, as follows:

DEPARTMENT OF STATE

D. Kathleen Stephens, of Montana, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Korea.

Philip Thomas Reeker, of the District of Columbia, 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 Macedonia.

DEPARTMENT OF THE TREASURY

Eric M. Thorson, of Virginia, to be Inspector General, Department of the Treasury.

IN THE NAVY

The following named officer for appointment to the grade indicated under title 10, U.S.C., section 5148:

To be vice admiral

Rear Adm. Bruce E. MacDonald

DEPARTMENT OF STATE

Marie L. Yovanovitch, of Connecticut, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Armenia.

Tatiana C. Gfoeller-Volkoff, of the District of Columbia, 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 Kyrgyz Republic.

W. Stuart Symington, of Missouri, 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 Rwanda.

Alan W. Eastham, Jr., of Arkansas, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of the Congo.

James Christopher Swan, 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 Djibouti.

Michele Jeanne Sison, of Maryland, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Lebanon.

Richard G. Olson, Jr., of New Mexico, 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 United Arab Emirates.

David D. Pearce, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the People's Democratic Republic of Algeria.

John A. Simon, of Maryland, to be Representative of the United States of America to the African Union, with the rank and status of Ambassador Extraordinary and Plenipotentiary.

AFRICAN DEVELOPMENT BANK

Mimi Alemayehou, of the District of Columbia, to be United States Director of the African Development Bank for a term of five years.

INTER-AMERICAN DEVELOPMENT BANK

Miguel R. San Juan, of Texas, to be United States Executive Director of the Inter-American Development Bank for a term of three years.

OVERSEAS PRIVATE INVESTMENT CORPORATION

Patrick J. Durkin, of Connecticut, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 2009, vice Ned L. Siegel, term expired.

EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

Kenneth L. Peel, of Maryland, to be United States Director of the European Bank for Reconstruction and Development.

AFRICAN DEVELOPMENT FOUNDATION

John W. Leslie, Jr., of Connecticut, to be a Member of the Board of Directors of the African Development Foundation for a term expiring September 22, 2013. (Reappointment)

John O. Agwunobi, of Florida, to be a Member of the Board of Directors of the African Development Foundation for a term expiring February 9, 2014.

Julius E. Coles, of Georgia, to be a Member of the Board of Directors of the African Development Foundation for a term expiring September 22, 2011.

Morgan W. Davis, of California, to be a Member of the Board of Directors of the African Development Foundation for a term expiring November 13, 2013.

THE JUDICIARY

Carol A. Dalton, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years.

Anthony C. Epstein, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years.

Heidi M. Pasichow, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years.

IN THE AIR FORCE

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be general

Gen. Duncan J. McNabb

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. William L. Shelton

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Larry D. James

The following Air National Guard of the United States officers for appointment in the Reserve of the Air Force to the grades indicated under title 10, U.S.C., sections 12203 and 12212:

To be major general

Brigadier General William S. Busby, III
Brigadier General Stanley E. Clarke, III
Brigadier General John B. Ellington, Jr.
Brigadier General Maria A. Falca-Dodson
Brigadier General Tony A. Hart
Brigadier General James E. Hearon
Brigadier General Mark F. Sears

To be brigadier general

Colonel Theresa Z. Blumberg
Colonel Paul D. Brown, Jr.
Colonel Steven D. Friedricks
Colonel Steven D. Gregg
Colonel John O. Griffin
Colonel Joseph L. Lengyel
Colonel Bradley A. Livingston
Colonel Michael A. Meyer
Colonel Stanley J. Osserman, Jr.
Colonel Stephan A. Pappas
Colonel Bruce W. Prunk
Colonel Charles L. Smith
Colonel James R. Summers
Colonel Bruce N. Thompson
Colonel Delilah R. Works

The following named officer for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brig. Gen. Lawrence A. Stutzriem

IN THE ARMY

The following Army National Guard of the United States officer for promotion in the Reserve of the Army to the grade indicated under title 10, U.S.C., sections 12203 and 12211:

To be brigadier general

Col. James R. Anderson

The following named officers for appointment in the Reserve of the Army to the grades indicated under title 10, U.S.C., section 12203:

To be major general

Brigadier General Lie-Ping Chang
Brigadier General Paul E. Crandall
Brigadier General Jeffrey A. Jacobs
Brigadier General Dempsey D. Kee
Brigadier General Eldon P. Regua
Brigadier General Richard A. Stone
Brigadier General Keith L. Thurgood

To be brigadier general

Colonel Gill P. Beck
Colonel Paul M. Benenati
Colonel Alton G. Berry
Colonel Leslie J. Carroll
Colonel Joe E. Chesnut, Jr.
Colonel David G. Clarkson
Colonel Janet L. Cobb
Colonel Don S. Cornett, Jr.
Colonel Mark W. Corson
Colonel John J. Donnelly, III
Colonel James H. Doty, Jr.
Colonel Roger B. Duff
Colonel Gracus K. Dunn
Colonel William J. Gothard
Colonel Mark S. Hendrix
Colonel Patricia A. Heritsch
Colonel Leroy Winfield, Jr.
Colonel Eugene R. Woolridge, III

The following named officers for appointment to the grade indicated in the United States Army under title 10, U.S.C., section 624:

To be brigadier general

Colonel Heidi V. Brown
Colonel John A. Davis
Colonel Edward P. Donnelly, Jr.
Colonel Karen E. Dyson
Colonel Robert S. Ferrell
Colonel Stephen G. Fogarty
Colonel Michael X. Garrett
Colonel Thomas A. Harvey
Colonel Thomas A. Horlander
Colonel Paul J. Lacamera
Colonel Sean B. MacFarland
Colonel Kevin W. Mangum
Colonel Robert M. McCaleb
Colonel Colleen L. McGuire
Colonel Herbert R. McMaster, Jr.
Colonel Austin S. Miller
Colonel John M. Murray
Colonel Richard P. Mustion
Colonel Camille M. Nichols
Colonel John R. O'Connor

Colonel Lawarren V. Patterson
Colonel Gustave F. Perna
Colonel Warren E. Phipps, Jr.
Colonel Gregg C. Potter
Colonel Nancy L. S. Price
Colonel Edward M. Reeder, Jr.
Colonel Ross E. Ridge
Colonel Jess A. Scarbrough
Colonel Michael H. Shields
Colonel Jefforey A. Smith
Colonel Leslie C. Smith
Colonel Jeffrey J. Snow
Colonel Kurt S. Story
Colonel Kenneth E. Tovo
Colonel Stephen J. Townsend
Colonel John Uberti
Colonel Thomas S. Vandal
Colonel Bryan G. Watson
Colonel John F. Wharton
Colonel Mark W. Yenter

IN THE MARINE CORPS

The following named officer for appointment to the grade of lieutenant general in the United States Marine Corps while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. John M. Paxton, Jr.

IN THE NAVY

The following named officers for appointment in the United States Navy Reserve to the grade indicated under title 10, U.S.C., section 12203:

To be rear admiral (lower half)

Capt. Christopher J. Paul
Capt. Russell S. Penniman
Capt. Gary W. Rosholt
Capt. Robert P. Wright
Capt. Michael J. Yurina

The following named officers for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral (lower half)

Captain Terry B. Kraft

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. Bruce W. Clingan

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Vice Adm. James A. Winnefeld, Jr.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

IN THE AIR FORCE

PN1468 Air Force nominations (29) beginning CHRISTIAN L. BISCOTTI, and ending BARRY K. WELLS, which nominations were received by the Senate and appeared in the Congressional Record of March 11, 2008.

PN1904 Air Force nominations (7) beginning TIMOTHY M. FRENCH, and ending RACHELLE M. NOWLIN, which nominations were received by the Senate and appeared in the Congressional Record of July 23, 2008.

PN1915 Air Force nomination of Jeffrey T. Butler, which was received by the Senate and appeared in the Congressional Record of July 24, 2008.

IN THE ARMY

PN1888 Army nominations (3) beginning ROBERT S. DEMPSTER, and ending FRED A. KARNIK, which nominations were received by the Senate and appeared in the Congressional Record of July 22, 2008.

PN1889 Army nominations (2) beginning THOMAS G. NORBIE, and ending DAVID K. RHINEHART, which nominations were received by the Senate and appeared in the Congressional Record of July 22, 2008.

PN1890 Army nominations (17) beginning ANNE M. ANDREWS, and ending KIM N. THOMSEN, which nominations were received by the Senate and appeared in the Congressional Record of July 22, 2008.

PN1891 Army nominations (17) beginning DAVID E. BENTZEL, and ending SHANNON M. WALLACE, which nominations were received by the Senate and appeared in the Congressional Record of July 22, 2008.

PN1892 Army nominations (76) beginning CARLOS C. AMAYA, and ending SELINA G. WILLIAMS, which nominations were received by the Senate and appeared in the Congressional Record of July 22, 2008.

PN1893 Army nominations (109) beginning KIMBERLEE A. AIELLO, and ending D060789, which nominations were received by the Senate and appeared in the Congressional Record of July 22, 2008.

PN1905 Army nomination of Deborah J. McDonald, which was received by the Senate and appeared in the Congressional Record of July 23, 2008.

PN1916 Army nomination of Lemuel H. Clement, which was received by the Senate and appeared in the Congressional Record of July 24, 2008.

PN1917 Army nomination of Marco E. Harris, which was received by the Senate and appeared in the Congressional Record of July 24, 2008.

PN1918 Army nominations (3) beginning ROBERT J. HOWELL JR., and ending STANLEY R. JONES JR., which nominations were received by the Senate and appeared in the Congressional Record of July 24, 2008.

PN1919 Army nomination of Francis B. Magurn II, which was received by the Senate and appeared in the Congressional Record of July 24, 2008.

PN1920 Army nomination of Joseph W. Brown, which was received by the Senate and appeared in the Congressional Record of July 24, 2008.

PN1921 Army nomination of Victor Ursua, which was received by the Senate and appeared in the Congressional Record of July 24, 2008.

PN1922 Army nomination of Yvonne M. Beale, which was received by the Senate and appeared in the Congressional Record of July 24, 2008.

PN1923 Army nomination of Gerald P. Johnson, which was received by the Senate and appeared in the Congressional Record of July 24, 2008.

PN1924 Army nominations (2) beginning MAUEL LABORDE, and ending ANTHONY WOJCIK, which nominations were received by the Senate and appeared in the Congressional Record of July 24, 2008.

PN1925 Army nominations (3) beginning GEORGE J. JICHA, and ending WILLIAM H. SMITHSON, which nominations were received by the Senate and appeared in the Congressional Record of July 24, 2008.

PN1926 Army nominations (3) beginning CHRISTOPHER M. HARTLEY, and ending LAJOHNNE A. WHITE, which nominations were received by the Senate and appeared in the Congressional Record of July 24, 2008.

PN1927 Army nominations (4) beginning SAMUEL M. RUBEN, and ending GEORGE D. HORN, which nominations were received by the Senate and appeared in the Congressional Record of July 24, 2008.

IN THE NAVY

PN1894 Navy nominations (2) beginning TIMOTHY J. MCCULLOUGH, and ending JAE WOO CHUNG, which nominations were received by the Senate and appeared in the Congressional Record of July 22, 2008.

PN1895 Navy nominations (30) beginning PHILLIP J. BACHAND, and ending GILBERT L. WILLIAMS, which nominations were received by the Senate and appeared in the Congressional Record of July 22, 2008.

PN1928 Navy nomination of Eric D. Seeland, which was received by the Senate and appeared in the Congressional Record of July 24, 2008.

PN1929 Navy nominations (3) beginning WILLIAM L. HENDRICKSON, and ending ORLANDO GALLARDO JR., which nominations were received by the Senate and appeared in the Congressional Record of July 24, 2008.

DEPARTMENT OF EDUCATION

Holly A. Kuzmich, of Indiana, to be Assistant Secretary for Legislation and Congressional Affairs, Department of Education.

Christopher M. Marston, of Virginia, to be Assistant Secretary for Management, Department of Education.

REGULAR CORPS OF THE COMMISSIONED CORPS OF THE U.S. PUBLIC HEALTH SERVICE

The following candidates for personnel action in the Regular Corps of the Commissioned Corps of the U.S. Public Health Service subject to qualifications therefore as provided by law and regulations:

To be medical director

Margaret C. Bash
Diane E. Bennett
M Miles Braun
Louisa E. Chapman
Donald W. Clark
George A. Conway
Theresa Diaz Vargas
Steven H. Fox
Walter G. Hlady
Hamid S. Jafari
Susan A. Maloney
Diane A. Mitchell
Anthony W. Mounts
Carol A. Pertowski
Edward L. Petsonk
Lisa G. Rider
Steven R. Rosenthal
Patricia M. Simone
Gail M. Stennies
Pamela Stratton
John C. Watson

To be senior surgeon

Tecora D. Ballom
D. W. Chen
Patrick H. David
Michael C. Engel
Paul T. Harvey
Richard P. Hedlund
Michael T. Martin
John R. Mascola
William H. Orman
Bernard W. Parker
Karen L. Parko
Kevin A. Prohaska
William Resto-Rivera
Theresa L. Smith
Stephen H. Waterman

To be surgeon

Daniel S. Budnitz
Soju Chang
Eileen F. Dunne
Diana L. Dunnigan
David R. Gahn
John M. Hardin
Scott A. Harper
Richard P. Hedlund
Mitchell V. Mathis, Jr.
Matthew R. Moore
Marie A. Russell
Dorothy J. Sanderson
John W. Vanderhoof
Hui-Hsing Wong

To be senior assistant surgeon

Songhai C. Barclift
Richard P. Hedlund

Mitchell V. Mathis, Jr.
Matthew J. Olnes
Greggory J. Woitte

To be dental director

Joel J. Aimone
Mitchel J. Bernstein
David A. Crain
Clay D. Crossett
Christopher G. Halliday
Kathy L. Hayes
Stuart R. Holmes
Linda A. Jackson
John W. King
Michael E. Korale
Tad R. Mabry
Ronald J. Nagel
Mary S. Runner
Saunders P. Steiman
James N. Sutherland
Stephen P. Torna

To be senior dental surgeon

Timothy L. Ambrose
Anita L. Bright
Brenda S. Burges
Cielo C. Doherty
Robert G. Good
Renee Joskow
Gelynn L. Majure
Kippy G. Martin
Hsiao P. Peng
Ross W. Silver
John R. Smith
Michael P. Winkler
Paul S. Wood
Benjamin C. Wooten

To be dental surgeon

Stephanie M. Burrell
Tanya T. Hollinshed-Miles
Mary B. Johnson
Craig S. Kluger
Robert C. Lloyd, Jr.
Tanya M. Robinson
Bridget R. Swanberg-Austin
Vanessa F. Thomas
James H. Webb, Jr.
Earlena R. Wilson

To be nurse director

Mary C. Aoyama
Regena Dale
Fern S. Detsoi
Maureen Q. Farley
Clarice Gee
Ann R. Knebel
Sheryl L. Meyers
Ernestine Murray
James M. Pobrislo
Ana M. Puente
Gwethlyn J. Sabatinos
Toni Joy Spadaro
Diane R. Walsh
Janet L. Wildeboor

To be senior nurse officer

Yvonne L. Anthony
Dolores J. Atkinson
Katherine M. Berkhousen
Rosa J. Clark
Bucky M. Frost
Alex Garza
Bradley J. Husberg
Lynn M. Lowry
Ivy L. Manning
Daniel Reyna
Mchael L. Robinson
Linda M. Trujillo
Vien H. Vanderhoof
Theresa B. Wade
Amanda S. Waugaman
Konstantine K. Weld
Christine L. Williams
Adolfo Zorrilla

To be nurse officer

Amy F. Anderson
Felicia A. Andrews
Debra D. Aynes
Lisa A. Barnhart
Elizabeth A. Boot
Alicia A. Bradford
Theodora R. Bradley
Claudia M. Brown
Maureen J. Cippel
William F. Coyner
Susie P. Dill
Jenny Doan
John S. Gary, Jr.
Deanna M. Gephart
Akilah K. Green
Chris L. Henneford
Erik S. Hierholzer
Eunice F. Jones-Wills
Charles M. Kerns
Yvonne T. Lacour
Stephen D. Lane
Christine M. Mattson
Thel Moore, Jr.
Alois P. Provost
Tonia L. Sawyer
Sean-David A. Waterman
Kellie L. Westerbuhr
Zenja D. Woodley

To be senior assistant nurse officer

David A. Campbell
Darrell Lyons
Christine M. Merenda
Gloria M. Rodrigues
Geri L. Tagliaferri

To be engineer director

Dana J. Baer
Robert E. Biddle
David M. Birney
Craig W. Larson
Peter C. Pirillo, Jr.
George D. Pringle, Jr.
Paula A. Simenauer

To be senior engineer officer

Donald C. Antrobus
Leo M. Blade
Randall J. Gardner
Bradley K. Harris
Edward M. Lohr
Robert J. Lorenz
Dale M. Mossefin
Susan K. Neurath
Paul G. Robinson
Arthur D. Ronimus I, II
Jack S. Sorum
Kenneth T. Sun
Hung Trinh
Daniel H. Williams

To be engineer officer

Mark T. Bader
Sean M. Boyd
Tracy D. Gilchrist
Ramsey D. Hawasly
Stephen B. Martin, Jr.
Marcus C. Martinez
Mark A. Nasi
Delrey K. Pearson
Nicholas R. Vizzone

To be scientist director

S. Lori Brown
Lemyra M. Debruyn
Darcy E. Hanes
Deloris L. Hunter
Mahendra H. Kothary
Francois M. Lalonde
ONeal A. Walker

to be senior scientist

Jon R. Daugherty
John M. Hayes
William J. Murphy
Richard P. Troiano

To be scientist

Diana M. Bensyl
Mark J. Seaton

To be environmental health officer director

Steven M. Breithaupt
Richie K. Grinnell
Kathy L. Morring
John P. Sarisky

To be senior environmental health officer

Debra M. Flagg
Jean A. Gaunce
Kevin W. Hanley
Timothy M. Radtke
Kelly M. Taylor

To be environmental health officer

David B. Cramer
Thomas M. Fazzini
Brian K. Johnson
Tina J. Lankford
John W. Spriggs
Bobby T. Villines

To be veterinary director

Peter B. Bioland
Waiter R. Daley
Judith A. Davis
Shelley Hoogstraten-Miller
Marissa A. Miller

To be senior veterinary officer

Kristine M. Bisgard
Brent C. Morse
Kim D. Taylor

To be veterinary officer

Princess R. Campbell
Marianne Phelan Ross

To be pharmacist director

Rodney M. Bauer
Laurie B. Burke
Diane Centeno-Deshields
Paul A. David
Josephine E. Divel
George A. Lyght
Michael J. Montello
Cecilia-Marina Prela
Bryan l. Schulz
Raelene W. Skerda
Matthew A. Spataro

To be senior pharmacist

Edward D. Bashaw
Jeffrey T. Bingham
Beecher R. Cope, Jr.
Wesley G. Cox
Susan J. Fredericks
Muhammad A. Marwan
Jill D. Mayes
John F. Snow
Robert C. Steyert
Julienne M. Vaillancourt
Todd A. Warren
Kimberly A. Zietlow

To be pharmacist

Christopher K. Allen
Mitzie A. Allen
Michael J. Contos
David T. Diwa
Louis E. Feldman
Richard K. Glabach
Andrew S. Haffer
Glenna L. Meade
Andrew K. Meagher
Suryamohan V. Palanki
Laura L. Pincock
Martin H. Shimer II
Mark N. Strong
Brandon L. Taylor
Teresa A. Watkins
Samuel Y. Wu
Charla M. Young

To be dietitian director

Tammy L. Brown
Karen A. Herbelin

To be senior dietitian

Silvia Benincaso
Jean R. Makie
Vangie R. Tate

To be therapist director

Terry T. Cavanaugh
Georgia A Johnson
Susan F. Miller
Rebecca A. Parks

To be senior therapist

Nancy J. Balash

Mercedes Benitez-Mccrary
Gary W. Shelton

To be therapist

Cynthia E. Carter
Grant N. Mead
Sue N. Newman
Tarri Ann Randall

To be health services director

Maria E. Burns
Peter J. Delany
Julia A Dunaway
Annie Brayboy Fair
Steven M. Glover

To be senior health services officer

Gail A. Davis
Rafael A. Duenas
Gregory D. McLain
Nancy A. Nichols
Judy B. Pyant
Larry E . Richardson
Rafael A. Salas
William Tool
Gina B. Woodlief
Elise S. Young

To be health services officer

Jeffrey S. Buckser
Christopher C. Duncan
Amanda K. Dunnick
Nima D. Feldman
Beth D. Finnson
Celia S. Gabrel
Daniel H. Hesselgesser
Erich Kleinschmidt
Audrey G. Lum
Jack F. Martinez
Priscilla Rodriguez
Karen J. Sicard
Colleen E. White
Felicia B. Williams

To be senior assistant health services officer

Tracy J. Branch
William L. Cooper
Deborah A. Doody
Suzanne Carole Hennigan
Scarlett A. Lusk

The following candidates for personnel action in the Regular Corps of the Commissioned Corps of the U.S. Public Health Service subject to qualifications therefore as provided by law and regulations:

To be assistant surgeon

Robert P. Drewelow
Sarah R. Wheatley

UNITED STATES COAST GUARD

The following named individual for appointment as a permanent commissioned regular officer in the United States Coast Guard in the grade indicated under title 14, U.S.C., Section 211:

To be lieutenant

Stephen E. West

The following named individual for appointment as a permanent commissioned regular officer in the United States Coast Guard in the grade indicated under Title 14, U.S.C., Section 211:

To be lieutenant

Elisa M. Garrity

FEDERAL HIGHWAY ADMINISTRATION

Thomas J. Madison, of New York, to be Administrator of the Federal Highway Administration.

NOMINATION OF GENERAL NORTON A. SCHWARTZ

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to Calendar No. 742, and I ask that the Senate proceed immediately to vote on confirmation of the nomination.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of GEN Norton A. Schwartz, Calendar No. 742?

The nomination was confirmed.

Mr. REID. Mr. President, I ask unanimous consent that no further motions be in order; that the President be immediately notified of the Senate's action; that any statements relating to any of these nominations be printed in the RECORD, as if read; that the RECORD reflect that had there been a rollcall vote on Calendar No. 742, Senator WEBB of Virginia would have voted no; and that the Senate resume legislative session.

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

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

AUTHORITY TO FILE

Mr. REID. Mr. President, I ask unanimous consent that during the recess or adjournment of the Senate, that Senate committees may file committee-reported legislative and Executive Calendar business on Friday, August 22, during the hours of 10 a.m. to 12 noon.

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

AUTHORITY TO MAKE APPOINTMENTS

Mr. REID. Mr. President, I ask unanimous consent that notwithstanding the recess or adjournment of the Senate, the President of the Senate, the President of the Senate pro tempore, and the majority and minority leaders be authorized to make appointments to commissions, committees, boards, conferences or interparliamentary conferences authorized by law, by concurrent action of the two Houses or by order of the Senate.

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

ORDER FOR PRO FORMA SESSIONS

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess and convene for pro forma sessions with no business conducted on the following days and times and that following each pro forma session, the Senate recess until the following pro forma session: Tuesday, August 5, at 10 a.m.; Friday, August 8, at 11 a.m.; Tuesday, August 12, at 2 p.m.; Friday, August 15, at 10 a.m.; Tuesday, August 19, at 9 a.m.; Friday, August 22, at 10 a.m.; Tuesday, August 26, at 2 p.m.; Friday, August 29, at 2 p.m.; Tuesday, September 2, at 12 p.m.; Friday, September 5, at 9:30 a.m.; and further that when the Senate completes its pro forma session on Friday, September 5, the Senate stand adjourned until 3 p.m. on Monday, September 8; 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, and the Senate resume consideration of Calendar No. 732, S. 3001, the Defense authorization bill.

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

PROGRAM

Mr. REID. Mr. President, Senators should be prepared for a rollcall vote at about 5:30 p.m., on Monday, September 8. That vote would be on the motion to invoke cloture on the motion to proceed to the Defense authorization bill.

RECESS UNTIL TUESDAY, AUGUST 5, 2008, at 10 A.M.

Mr. REID. Mr. President, I see no one on the floor seeking recognition. Therefore, I ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 2:49 p.m., recessed until Tuesday, August 5, 2008, at 10 a.m.

NOMINATIONS

EXECUTIVE NOMINATIONS RECEIVED BY THE SENATE:

OFFICE OF PERSONNEL MANAGEMENT

MICHAEL W. HAGER, OF VIRGINIA, TO BE DIRECTOR OF THE OFFICE OF PERSONNEL MANAGEMENT FOR A TERM OF FOUR YEARS, VICE LINDA M. SPRINGER.

DEPARTMENT OF STATE

GREGORI LEBEDEV, OF VIRGINIA, TO BE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS FOR U.N. MANAGEMENT AND REFORM, WITH THE RANK OF AMBASSADOR.

GREGORI LEBEDEV, OF VIRGINIA, TO BE ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SESSIONS OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS, DURING HIS TENURE OF SERVICE AS REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS FOR U.N. MANAGEMENT AND REFORM.

DISCHARGED NOMINATIONS

The Senate Committee on Health, Education, Labor, and Pensions was discharged from further consideration of the following nominations and the nominations were confirmed:

PUBLIC HEALTH SERVICE NOMINATIONS BEGINNING WITH MARGARET C. BASH AND ENDING WITH SCARLETT A. LUSK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 5, 2008.

PUBLIC HEALTH SERVICE NOMINATIONS BEGINNING WITH ROBERT P. DREWELOW AND ENDING WITH SARAH R. WHEATLEY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 3, 2008.

HOLLY A. KUZMICH, OF INDIANA, TO BE ASSISTANT SECRETARY FOR LEGISLATION AND CONGRESSIONAL AFFAIRS, DEPARTMENT OF EDUCATION.

CHRISTOPHER M. MARSTON, OF VIRGINIA, TO BE ASSISTANT SECRETARY FOR MANAGEMENT, DEPARTMENT OF EDUCATION.

The Senate Committee on Commerce, Science, and Transportation was discharged from further consideration of the following nominations and the nominations were confirmed:

COAST GUARD NOMINATION OF STEPHEN E. WEST, TO BE LIEUTENANT.

The Senate Committee on Environment and Public Works was discharged from further consideration of the following nomination and the nomination was confirmed:

THOMAS J. MADISON, OF NEW YORK, TO BE ADMINISTRATOR OF THE FEDERAL HIGHWAY ADMINISTRATION.

CONFIRMATIONS

Executive nominations confirmed by the Senate August 1, 2008:

DEPARTMENT OF STATE

D. KATHLEEN STEPHENS, OF MONTANA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF KOREA.

PHILIP THOMAS REEKER, OF THE DISTRICT OF COLUMBIA, 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 MACEDONIA.

DEPARTMENT OF THE TREASURY

ERIC M. THORSON, OF VIRGINIA, TO BE INSPECTOR GENERAL, DEPARTMENT OF THE TREASURY.

DEPARTMENT OF STATE

MARIE L. YOVANOVITCH, OF CONNECTICUT, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ARMENIA.

TATIANA C. GFOELLER-VOLKOFF, OF THE DISTRICT OF COLUMBIA, 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 KYRGYZ REPUBLIC.

W. STUART SYMINGTON, OF MISSOURI, 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 RWANDA.

ALAN W. EASTHAM, JR., OF ARKANSAS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF THE CONGO.

JAMES CHRISTOPHER SWAN, 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 DJIBOUTI.

MICHELE JEANNE SISON, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF LEBANON.

RICHARD G. OLSON, JR., OF NEW MEXICO, 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 UNITED ARAB EMIRATES.

DAVID D. PEARCE, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE PEOPLE'S DEMOCRATIC REPUBLIC OF ALGERIA.

JOHN A. SIMON, OF MARYLAND, TO BE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE AFRICAN UNION, WITH THE RANK AND STATUS OF AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY.

AFRICAN DEVELOPMENT BANK

MIMI ALEMAYEHOU, OF THE DISTRICT OF COLUMBIA, TO BE UNITED STATES DIRECTOR OF THE AFRICAN DEVELOPMENT BANK FOR A TERM OF FIVE YEARS.

INTER-AMERICAN DEVELOPMENT BANK

MIGUEL R. SAN JUAN, OF TEXAS, TO BE UNITED STATES EXECUTIVE DIRECTOR OF THE INTER-AMERICAN DEVELOPMENT BANK FOR A TERM OF THREE YEARS.

OVERSEAS PRIVATE INVESTMENT CORPORATION

PATRICK J. DURKIN, OF CONNECTICUT, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 2009.

EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

KENNETH L. PEEL, OF MARYLAND, TO BE UNITED STATES DIRECTOR OF THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT.

AFRICAN DEVELOPMENT FOUNDATION

JOHN W. LESLIE, JR., OF CONNECTICUT, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE AFRICAN DEVELOPMENT FOUNDATION FOR A TERM EXPIRING SEPTEMBER 22, 2013.

JOHN O. AGWUNOBI, OF FLORIDA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE AFRICAN DEVELOPMENT FOUNDATION FOR A TERM EXPIRING FEBRUARY 9, 2014.

JULIUS E. COLES, OF GEORGIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE AFRICAN DEVELOPMENT FOUNDATION FOR A TERM EXPIRING SEPTEMBER 22, 2011.

MORGAN W. DAVIS, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE AFRICAN DEVELOPMENT FOUNDATION FOR A TERM EXPIRING NOVEMBER 13, 2013.

THE JUDICIARY

CAROL A. DALTON, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA FOR THE TERM OF FIFTEEN YEARS.

ANTHONY C. EPSTEIN, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA FOR THE TERM OF FIFTEEN YEARS.

HEIDI M. PASICHOW, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA FOR THE TERM OF FIFTEEN YEARS.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS CHIEF OF STAFF, UNITED STATES AIR FORCE, AND APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTIONS 8033 AND 601:

To be general

GEN. NORTON A. SCHWARTZ

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

GEN. DUNCAN J. MCNABB

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF EDUCATION

HOLLY A. KUZMICH, OF INDIANA, TO BE ASSISTANT SECRETARY FOR LEGISLATION AND CONGRESSIONAL AFFAIRS, DEPARTMENT OF EDUCATION.

CHRISTOPHER M. MARSTON, OF VIRGINIA, TO BE ASSISTANT SECRETARY FOR MANAGEMENT, DEPARTMENT OF EDUCATION.

DEPARTMENT OF TRANSPORTATION

THOMAS J. MADISON, OF NEW YORK, TO BE ADMINISTRATOR OF THE FEDERAL HIGHWAY ADMINISTRATION.

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 5148:

To be vice admiral

REAR ADM. BRUCE E. MACDONALD

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. WILLIAM L. SHELTON

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. LARRY D. JAMES

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

To be major general

BRIGADIER GENERAL WILLIAM S. BUSBY III
BRIGADIER GENERAL STANLEY E. CLARKE III
BRIGADIER GENERAL JOHN B. ELLINGTON, JR.
BRIGADIER GENERAL MARIA A. FALCA-DODSON
BRIGADIER GENERAL TONY A. HART
BRIGADIER GENERAL JAMES E. HEARON
BRIGADIER GENERAL MARK F. SEARS

To be brigadier general

COLONEL THERESA Z. BLUMBERG
COLONEL PAUL D. BROWN, JR.
COLONEL STEVEN D. FRIEDRICKS
COLONEL STEVEN D. GREGG
COLONEL JOHN O. GRIFFIN
COLONEL JOSEPH L. LENGYEL
COLONEL BRADLEY A. LIVINGSTON
COLONEL MICHAEL A. MEYER
COLONEL STANLEY J. OSSERMAN, JR.
COLONEL STEPHAN A. PAPPAS
COLONEL BRUCE W. PRUNK
COLONEL CHARLES L. SMITH
COLONEL JAMES R. SUMMERS
COLONEL BRUCE N. THOMPSON
COLONEL DELILAH R. WORKS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIG. GEN. LAWRENCE A. STUTZRIEM

IN THE ARMY

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR PROMOTION IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be brigadier general

COL. JAMES R. ANDERSON

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIGADIER GENERAL LIE-PING CHANG
BRIGADIER GENERAL PAUL E. CRANDALL
BRIGADIER GENERAL JEFFREY A. JACOBS
BRIGADIER GENERAL DEMPSEY D. KEE
BRIGADIER GENERAL ELDON P. REGUA
BRIGADIER GENERAL RICHARD A. STONE
BRIGADIER GENERAL KEITH L. THURGOOD

To be brigadier general

COLONEL GILL P. BECK
COLONEL PAUL M. BENENATI
COLONEL ALTON G. BERRY
COLONEL LESLIE J. CARROLL
COLONEL JOE E. CHESNUT, JR.
COLONEL DAVID G. CLARKSON
COLONEL JANET L. COBB
COLONEL DON S. CORNETT, JR.
COLONEL MARK W. CORSON
COLONEL JOHN J. DONNELLY III
COLONEL JAMES H. DOTY, JR.
COLONEL ROGER B. DUFF
COLONEL GRACUS K. DUNN
COLONEL WILLIAM J. GOTHARD
COLONEL MARK S. HENDRIX
COLONEL PATRICIA A. HERITSCH
COLONEL LEROY WINFIELD, JR.
COLONEL EUGENE R. WOOLRIDGE III

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COLONEL HEIDI V. BROWN
COLONEL JOHN A. DAVIS
COLONEL EDWARD P. DONNELLY, JR.
COLONEL KAREN E. DYSON
COLONEL ROBERT S. FERRELL
COLONEL STEPHEN G. FOGARTY
COLONEL MICHAEL X. GARRETT
COLONEL THOMAS A. HARVEY
COLONEL THOMAS A. HORLANDER
COLONEL PAUL J. LACAMERA
COLONEL SEAN B. MACFARLAND
COLONEL KEVIN W. MANGUM
COLONEL ROBERT M. MCCALEB
COLONEL COLLEEN L. MCGUIRE
COLONEL HERBERT R. MCMASTER, JR.
COLONEL AUSTIN S. MILLER
COLONEL JOHN M. MURRAY
COLONEL RICHARD P. MUSTION
COLONEL CAMILLE M. NICHOLS
COLONEL JOHN R. O'CONNOR
COLONEL LAWARREN V. PATTERSON
COLONEL GUSTAVE F. PERNA
COLONEL WARREN E. PHIPPS, JR.
COLONEL GREGG C. POTTER
COLONEL NANCY L. S. PRICE
COLONEL EDWARD M. REEDER, JR.
COLONEL ROSS E. RIDGE
COLONEL JESS A. SCARBROUGH
COLONEL MICHAEL H. SHIELDS
COLONEL JEFFOREY A. SMITH
COLONEL LESLIE C. SMITH
COLONEL JEFFREY J. SNOW
COLONEL KURT S. STORY
COLONEL KENNETH E. TOVO
COLONEL STEPHEN J. TOWNSEND
COLONEL JOHN UBERTI
COLONEL THOMAS S. VANDAL
COLONEL BRYAN G. WATSON
COLONEL JOHN F. WHARTON
COLONEL MARK W. YENTER

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE UNITED STATES MARINE CORPS WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. JOHN M. PAXTON, JR.

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral (lower half)

CAPT. CHRISTOPHER J. PAUL
CAPT. RUSSELL S. PENNIMAN
CAPT. GARY W. ROSHOLT
CAPT. ROBERT P. WRIGHT
CAPT. MICHAEL J. YURINA

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral (lower half)

CAPTAIN TERRY B. KRAFT

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED

WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. BRUCE W. CLINGAN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

VICE ADM. JAMES A. WINNEFELD, JR.

IN THE COAST GUARD

COAST GUARD NOMINATION OF STEPHEN E. WEST, TO BE LIEUTENANT.

COAST GUARD NOMINATION OF ELISA M. GARRITY, TO BE LIEUTENANT.

PUBLIC HEALTH SERVICE

PUBLIC HEALTH SERVICE NOMINATIONS BEGINNING WITH MARGARET C. BASH AND ENDING WITH SCARLETT A. LUSK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 5, 2008.

PUBLIC HEALTH SERVICE NOMINATIONS BEGINNING WITH ROBERT P. DREWELOW AND ENDING WITH SARAH R. WHEATLEY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 3, 2008.

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING WITH CHRISTIAN L. BISCOTTI AND ENDING WITH BARRY K. WELLS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 11, 2008.

AIR FORCE NOMINATIONS BEGINNING WITH TIMOTHY M. FRENCH AND ENDING WITH RACHELLE M. NOWLIN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 23, 2008.

AIR FORCE NOMINATION OF JEFFREY T. BUTLER, TO BE COLONEL.

IN THE ARMY

ARMY NOMINATIONS BEGINNING WITH ROBERT S. DEMPSTER AND ENDING WITH FRED A. KARNIK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 22, 2008.

ARMY NOMINATIONS BEGINNING WITH THOMAS G. NORBIE AND ENDING WITH DAVID K. RHINEHART, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 22, 2008.

ARMY NOMINATIONS BEGINNING WITH ANNE M. ANDREWS AND ENDING WITH KIM N. THOMSEN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 22, 2008.

ARMY NOMINATIONS BEGINNING WITH DAVID E. BENTZEL AND ENDING WITH SHANNON M. WALLACE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 22, 2008.

ARMY NOMINATIONS BEGINNING WITH CARLOS C. AMAYA AND ENDING WITH SELINA G. WILLIAMS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 22, 2008.

ARMY NOMINATIONS BEGINNING WITH KIMBERLEE A. AIELLO AND ENDING WITH D060789, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 22, 2008.

ARMY NOMINATION OF DEBORAH J. MCDONALD, TO BE COLONEL.

ARMY NOMINATION OF LEMUEL H. CLEMENT, TO BE COLONEL.

ARMY NOMINATION OF MARCO E. HARRIS, TO BE COLONEL.

ARMY NOMINATIONS BEGINNING WITH ROBERT J. HOWELL, JR. AND ENDING WITH STANLEY R. JONES, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 24, 2008.

ARMY NOMINATION OF FRANCIS B. MAGURN II, TO BE COLONEL.

ARMY NOMINATION OF JOSEPH W. BROWN, TO BE MAJOR.

ARMY NOMINATION OF VICTOR URSUA, TO BE MAJOR.

ARMY NOMINATION OF YVONNE M. BEALE, TO BE MAJOR.

ARMY NOMINATION OF GERALD P. JOHNSON, TO BE LIEUTENANT COLONEL.

ARMY NOMINATIONS BEGINNING WITH MAUEL LABORDE AND ENDING WITH ANTHONY WOJCIK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 24, 2008.

ARMY NOMINATIONS BEGINNING WITH GEORGE J. JICHA AND ENDING WITH WILLIAM H. SMITHSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 24, 2008.

ARMY NOMINATIONS BEGINNING WITH CHRISTOPHER M. HARTLEY AND ENDING WITH LAJOHNNE A. WHITE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 24, 2008.

ARMY NOMINATIONS BEGINNING WITH SAMUEL M. RUBEN AND ENDING WITH GEORGE D. HORN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 24, 2008.

IN THE NAVY

NAVY NOMINATIONS BEGINNING WITH TIMOTHY J. MCCULLOUGH AND ENDING WITH JAE WOO CHUNG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 22, 2008.

NAVY NOMINATIONS BEGINNING WITH PHILLIP J. BACHAND AND ENDING WITH GILBERT L. WILLIAMS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 22, 2008.

NAVY NOMINATION OF ERIC D. SEELAND, TO BE CAPTAIN.

NAVY NOMINATIONS BEGINNING WITH WILLIAM L. HENDRICKSON AND ENDING WITH ORLANDO GALLARDO, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 24, 2008.